

CFTC Ex. 531

Long Leaf Trading Group

Donelson, James 2021-06-23

6/23/2021 9:03 AM

Condensed Transcript

Prepared by:

Ashley Burden
CFTC

Wednesday, November 3, 2021

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| <p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS 2 EASTERN DIVISION 3 COMMODITY FUTURES TRADING) COMMISSION,) 4) Plaintiff,) 5) vs.) No. 20 C 3758 6) LONG LEAF TRADING GROUP,) 7 INC., et al.,)) 8 Defendants.) 9 10 11 The remote video deposition of 12 JAMES A. DONELSON, called by the Plaintiff for 13 examination, pursuant to subpoena and pursuant to 14 the Federal Rules of Civil Procedure for the United 15 States District Courts pertaining to the taking of 16 depositions, taken before Mary Maslowski, Certified 17 Shorthand Reporter and Notary Public within and 18 for the County of Cook and State of Illinois with 19 the witness located in Aurora, Illinois, commencing 20 at the hour of 9:03 o'clock on June 23, 2021. 21 22 23 24</p> | <p style="text-align: right;">Page 3</p> <p>1 INDEX 2 WITNESS DX CX_RDX RCX 3 JAMES A. DONELSON 4 By Mr. Burden 5 5 6 EXHIBITS 7 CFTC EXHIBIT FIRST REFERENCE 8 No. 4 107 9 No. 48 123 10 No. 52 68 11 No. 200 175 12 No. 201 179 13 No. 274 210 14 No. 290 140 15 No. 300 170 16 No. 380 8 17 No. 381 53 18 No. 382 5 19 No. 383 7 20 No. 395 115 21 No. 396 109 22 No. 397 102 23 No. 401 214 24 No. 408 212 No. 409 143 No. 410 153 No. 411 149 No. 413 156 No. 414 157 No. 416 174 No. 419 30 No. 422 203 No. 427 207 No. 428 139 No. 438 167 No. 440 169 No. 450 132 22 23 24</p> |
| <p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 (Appearing via videoconference) 3 MR. ASHLEY J. BURDEN, Senior Trial Attorney MR. JOSEPH C. PLATT, Trial Attorney 4 MS. ELIZABETH M. STREIT, Trial Team Leader MR. JOSEPH J. PATRICK, Senior Investigator 5 U.S. COMMODITY FUTURES TRADING COMMISSION DIVISION OF ENFORCEMENT 6 525 West Monroe Street, Suite 1100 Chicago, Illinois 60661 7 (312) 596-0700 aburden@cftc.gov 8 jplatt@cftc.gov estreit@cftc.gov 9 jpatrick@cftc.gov 10 On behalf of the U.S. Commodity Futures Trading Commission; 11 (Appearing via videoconference) 12 FALVEY LAW OFFICE BY MR. JAMES M. FALVEY 13 200 South Wacker Drive, Suite 3100 Chicago, Illinois 60606 14 (312) 404-5839 jimfalvey@yahoo.com 15 On behalf of Long Leaf Trading Group, 16 Inc., and James A. Donelson; 17 (Appearing via videoconference) MR. JEREMY RUTH 18 Appearing Pro Se. 19 20 ALSO PRESENT: 21 MR. CONNOR GUILFOYLE, CFTC Intern (Remotely) 22 23 CSR License No. 084-003278. 24</p> | <p style="text-align: right;">Page 4</p> <p>1 EXHIBITS (Cont'd.) 2 CFTC EXHIBIT FIRST REFERENCE 3 No. 451 130 4 No. 452 132 5 No. 454 202 6 No. 455 200 7 No. 470 160 8 No. 475 86 9 No. 477 186 10 No. 478 14 11 No. 479 209 12 No. 480 150 13 No. 485 36 14 No. 486 120 15 No. 487 119 16 17 18 19 20 21 22 23 24</p> |

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| <p style="text-align: right;">Page 5</p> <p>1 (Witness duly sworn.)</p> <p>2 MR. BURDEN: All right. And would</p> <p>3 counsel identify themselves for the record.</p> <p>4 MR. FALVEY: Yes. This is Jim Falvey,</p> <p>5 Falvey Law Office. I'm representing Jim</p> <p>6 Donelson.</p> <p>7 MR. BURDEN: On behalf of the CFTC we</p> <p>8 have Ashley Burden, Jody Platt, Beth Streit</p> <p>9 and our intern Connor Guilfoyle, who's here</p> <p>10 with the gracious permission of Donelson's</p> <p>11 counsel.</p> <p>12 JAMES A. DONELSON,</p> <p>13 called as a witness herein, having been first duly</p> <p>14 sworn, was examined and testified as follows:</p> <p>15 DIRECT EXAMINATION</p> <p>16 BY MR. BURDEN:</p> <p>17 Q All right. Mr. Donelson, do you</p> <p>18 have our PDF portfolio of exhibits available and</p> <p>19 in front of you?</p> <p>20 A Yes.</p> <p>21 Q All right. Will you go to CFTC</p> <p>22 Exhibit 382, please.</p> <p>23 MR. FALVEY: 382?</p> <p>24 MR. BURDEN: 382.</p> | <p style="text-align: right;">Page 7</p> <p>1 changes to this presentation, please.</p> <p>2 A Well, we removed Tim Evans from it.</p> <p>3 Q Sorry. Would you say that again, please.</p> <p>4 A We removed Tim Evans from it.</p> <p>5 Q Okay, sorry. I want to go into that</p> <p>6 in a minute. But you said that you used this</p> <p>7 presentation in 382, or the APs used it, for four</p> <p>8 to five months. So they used it until approximately</p> <p>9 April or May of 2018, is that right?</p> <p>10 A That's correct.</p> <p>11 Q All right. And until that time were</p> <p>12 any changes made to this presentation that the</p> <p>13 APs were using?</p> <p>14 A The only change was removing Tim Evans</p> <p>15 from the presentation.</p> <p>16 Q Got it. Would you look for me, please --</p> <p>17 would you go to Exhibit 383, please. It should be</p> <p>18 the next one in the portfolio.</p> <p>19 A Okay.</p> <p>20 Q Take a look at 383 for me, if you</p> <p>21 would, please, and tell me what you recognize</p> <p>22 it to be.</p> <p>23 A It is a demo presentation.</p> <p>24 Q All right. Give me one moment here.</p> |
| <p style="text-align: right;">Page 6</p> <p>1 MR. FALVEY: Yeah. Oh, I'm sorry.</p> <p>2 There it is.</p> <p>3 A Okay. I have it.</p> <p>4 BY MR. BURDEN:</p> <p>5 Q All right. Take a moment to look at</p> <p>6 CFTC Exhibit 382 and tell me what you recognize it</p> <p>7 to be, please.</p> <p>8 A It is the demo presentation when I --</p> <p>9 right when I acquired the firm.</p> <p>10 Q All right. When you say demo presentation,</p> <p>11 what does that mean?</p> <p>12 A It is the presentation we would give on</p> <p>13 the first call with a customer or with a prospective</p> <p>14 customer.</p> <p>15 Q Got it. And so this was a presentation</p> <p>16 that was developed under Mr. Evans at Long Leaf</p> <p>17 Trading. And we're seeing in Exhibit 382 that he</p> <p>18 is sending the presentation to you, is that correct?</p> <p>19 A Correct.</p> <p>20 Q All right. And how long did APs at Long</p> <p>21 Leaf Trading continue to use this presentation for?</p> <p>22 A Maybe four to five months before we made</p> <p>23 changes to it.</p> <p>24 Q All right. And when did you make</p> | <p style="text-align: right;">Page 8</p> <p>1 Sorry.</p> <p>2 MR. FALVEY: No problem.</p> <p>3 BY MR. BURDEN:</p> <p>4 Q All right. Sorry about that. Can you</p> <p>5 turn to CFTC Exhibit 380 for me, please.</p> <p>6 A Okay.</p> <p>7 Q All right. Take a moment to look this</p> <p>8 over and tell me what you recognize it to be, if</p> <p>9 you would, please.</p> <p>10 A It is a training demo script for the demo.</p> <p>11 Q All right. So this is the script the</p> <p>12 APs were supposed to use in connection with the</p> <p>13 presentation we saw in Exhibit 382, is that right?</p> <p>14 A This is the script they were trained</p> <p>15 on to give them an ability to understand how to</p> <p>16 go through the demo.</p> <p>17 Q All right. And was this the script that</p> <p>18 you -- that the APs were using when you started at</p> <p>19 Long Leaf Trading?</p> <p>20 A I believe so.</p> <p>21 Q All right. What's your basis for that</p> <p>22 belief? Why do you think that?</p> <p>23 A I don't know what happened before I was</p> <p>24 there. This -- this is what they were training on</p> |

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| <p style="text-align: right;">Page 9</p> <p>1 when I took over, from my understanding. 2 Q Well, what's your basis for that 3 understanding? I'm not disagreeing with you. 4 I just -- I want to know why you think that this 5 is the script that, as you put it, the APs were 6 training on when you started. 7 A I was not made aware of this script 8 for almost four months after I acquired the firm. 9 This was not given to me as part of the acquisition 10 documents. 11 Q All right. Well, I want to explore 12 that in a moment. But, you know, why do you think 13 that this is the script the APs were using when you 14 started at the firm? 15 A I'm just looking at the changed date and 16 the revision date on the document. 17 Q And what are those dates, please. 18 A The revised date is June 7, 2017 19 and the strike-through date is December 15, 2015. 20 Q Okay. Well, this document, Exhibit 380, 21 is one that you produced to us. You produced this 22 to us in September of 2019. The file name is Demo- 23 Jr. Broker.docx. Where did you get this document 24 from to send it to us?</p> | <p style="text-align: right;">Page 11</p> <p>1 did you think the APs were telling customers? 2 A I was relying on the bullet point -- 3 or the bullet points that were approved by the NFA 4 that were given to me at the time of acquisition. 5 Q All right. When you say you were 6 referring to bullet points approved by the NFA, 7 what are you talking about? 8 A There was a talking points document 9 that was submitted to the NFA and received a no 10 comment back from it. 11 Q Okay. Did you read these talking points? 12 Do you know what they said? 13 A Yes. 14 Q What did they say? 15 A They basically had talking points for 16 each one of the slides that came through in terms 17 of what questions you were asking, what information 18 you were trying to elicit from the prospective 19 customer. 20 Q All right. Did you actually 21 have a copy of these talking points that you 22 said that you believed were approved by the NFA? 23 A Yeah. 24 Q Okay. Where did you keep them?</p> |
| <p style="text-align: right;">Page 10</p> <p>1 A I believe one of the APs sent it to 2 me earlier, and then I forwarded it in all the -- 3 with all the documents at the company. 4 Q What AP sent this script in 380 to you? 5 A I don't remember which one. 6 Q When did this AP send Exhibit 380 to you? 7 A March of 2018, as best as I can remember. 8 Q What's your basis for that recollection? 9 Do you remember getting an email? Did somebody talk 10 to you? Why can you remember that and not the name 11 of the guy that sent it to you? 12 A I don't remember, honestly. 13 Q All right. Well, let's stay on 14 Exhibit 380 for a moment, if we could, please. 15 So Exhibit 380, your testimony just now is that, you 16 know, you were at Long Leaf Trading for four months 17 before you even saw this script, is that correct? 18 A Correct. 19 Q All right. So if you hadn't seen 20 this script for four months, you know, what did 21 you think that the APs were telling customers? 22 A Could you repeat the question? 23 Q Yeah. So if you didn't see this script 24 for four months when you started, you know, what</p> | <p style="text-align: right;">Page 12</p> <p>1 A They were in the solicitation folder 2 on my computer. 3 Q All right. We're going to come back 4 to those. So I want to stay on CFTC Exhibit 380. 5 There are a couple representations in this script, 6 you know, that form the basis for our fraud claim, 7 so they're familiar to you. You know, these 8 approved bullet points -- well, let me phrase the 9 question another way. 10 Were you aware during your 11 first four months at Long Leaf Trading that APs 12 were telling customers that 76.5 percent of options 13 expired worthless and that increased the customer's 14 statistical likelihood of success? I'm paraphrasing 15 but were you aware that that was something that APs 16 were saying to customers? 17 A Yes. 18 Q All right. And another point in 19 CFTC Exhibit 380 is the representation by APs 20 that one of Long Leaf's principles was to provide 21 strong returns for clients and that they wouldn't be 22 managing millions of dollars for hundreds of clients 23 if they weren't making money for their clients. 24 During your first four months</p> |

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| <p style="text-align: right;">Page 13</p> <p>1 at Long Leaf Trading, were you aware that APs were</p> <p>2 saying that to customers?</p> <p>3 A Could you repeat what you're saying</p> <p>4 in terms of what the customer -- what they are</p> <p>5 saying to a customer?</p> <p>6 Q Yeah, I'll tell you what. Let's go</p> <p>7 to Exhibit 380, if we could, please, and go down,</p> <p>8 if you would, please, to the seventh page. And</p> <p>9 I want to direct your attention to Point 10, which</p> <p>10 is Introduce the Three Principles. So tell me when</p> <p>11 you're there, please.</p> <p>12 A Yeah, I'm there.</p> <p>13 Q All right. So do you see the script</p> <p>14 in 380 says, "Since 2009 Long Leaf was founded on</p> <p>15 three principles." And I want you to look at No. 3</p> <p>16 and it says, "We should provide our clients a strong</p> <p>17 return on their investment." Point B says, "Now,</p> <p>18 these three principles are what we have built our</p> <p>19 company upon and everything that we do since our</p> <p>20 inception. At Long Leaf we measure our success by</p> <p>21 our clients' success. As a company, we wouldn't</p> <p>22 have the ability to work with hundreds of clients</p> <p>23 month after month for nine years and oversee</p> <p>24 millions of dollars if we weren't being profitable</p> | <p style="text-align: right;">Page 15</p> <p>1 A Yes.</p> <p>2 Q Can you tell me what it is, please.</p> <p>3 A It's our -- my response to the third set</p> <p>4 of requests for production.</p> <p>5 Q Okay. Is it correct? Is it accurate?</p> <p>6 A Yes.</p> <p>7 Q All right. So I want to look at this</p> <p>8 part about review of oral communications on page 3.</p> <p>9 Are you with me?</p> <p>10 A Yes.</p> <p>11 Q All right. So it says here</p> <p>12 oral communications were managed by Brian</p> <p>13 Adams during his tenure and Scott Gecas. To the</p> <p>14 extent conversations were recorded, Mr. Adams was</p> <p>15 responsible for reviewing and working with APs to</p> <p>16 ensure compliance with NFA and CFTC rules. It says</p> <p>17 the call system had the ability to listen to a live</p> <p>18 conversation or even provide communications -- you</p> <p>19 know what, I'm going to stop reading. There's no</p> <p>20 reason to read this.</p> <p>21 Let me just ask you instead.</p> <p>22 And I want to come back to this, Mr. Donelson.</p> <p>23 You know, your testimony is that you believe that</p> <p>24 the APs were following some bullet points that were</p> |
| <p style="text-align: right;">Page 14</p> <p>1 for them. Does that make sense?"</p> <p>2 My question to you is did you know</p> <p>3 that APs were saying that to customers?</p> <p>4 A I don't remember hearing them say that</p> <p>5 because I was working off the bullet points and</p> <p>6 the bullet points don't say that.</p> <p>7 Q All right. So this piece we see</p> <p>8 on page 7 of Exhibit 380 about the ability to work</p> <p>9 with hundreds of clients month after month, oversee</p> <p>10 millions of dollars if we weren't being profitable,</p> <p>11 strong return, your testimony is that that is not</p> <p>12 in the approved bullet points that you --</p> <p>13 A Correct.</p> <p>14 Q -- had seen? All right. Is your</p> <p>15 testimony that you never heard any of the APs at</p> <p>16 Long Leaf say these things about a strong return for</p> <p>17 clients or that they wouldn't be able to do business</p> <p>18 if they weren't being profitable for clients?</p> <p>19 A As I said, I don't remember hearing it.</p> <p>20 Q All right. Mr. Donelson, I want you</p> <p>21 to turn your attention, if you would, please, to</p> <p>22 CFTC Exhibit 478.</p> <p>23 A Okay.</p> <p>24 Q Do you recognize this document?</p> | <p style="text-align: right;">Page 16</p> <p>1 approved by the NFA. What did you do to make sure</p> <p>2 that the APs were actually following those bullet</p> <p>3 points and not, I don't know, saying something else</p> <p>4 or making misrepresentations to customers or</p> <p>5 anything like that?</p> <p>6 A Well, I had assigned Brian and</p> <p>7 Scott the responsibility of making sure that</p> <p>8 they were following the approved communications.</p> <p>9 Q All right. And how long were Brian Adams</p> <p>10 and Scott Gecas in charge of that?</p> <p>11 A Brian was until June and Scott was --</p> <p>12 Q Of what year, please.</p> <p>13 A June 2018, I'm sorry. And Scott</p> <p>14 Gecas would have been through December of 2018.</p> <p>15 Q All right. And then after that</p> <p>16 you took responsibility for monitoring calls,</p> <p>17 correct?</p> <p>18 A Correct.</p> <p>19 Q Prior to December of 2018 did you monitor</p> <p>20 AP calls with customers?</p> <p>21 A Typically, no. I turned that</p> <p>22 responsibility over to Brian and Scott.</p> <p>23 Q So like did you ever go out to like</p> <p>24 the sales floor and, you know, listen to what</p> |

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1 the APs were saying to customers?
 2 A I was sitting on the sales floor.
 3 Q Sorry. Say it again, please.
 4 A The layout of the office was I'm right
 5 in the sales floor.
 6 Q Oh, so you didn't -- I should ask that.
 7 So you didn't have your own office during those
 8 first four months at Long Leaf?
 9 A No.
 10 Q So it was just one big room and you were
 11 in the middle of it with the APs?
 12 A I was not in the middle of it, no. I was
 13 in the back of it, but it was one room.
 14 Q And how many other guys were in that room,
 15 please.
 16 A Twelve people.
 17 Q And were they all APs? Were they all
 18 salespeople?
 19 A I will say yes. However, there are
 20 short periods of time where somebody wasn't an AP.
 21 But for the most part, yes, they were all APs.
 22 Q Got it. And so you're sitting in the same
 23 room with all 12 of these APs, and your testimony is
 24 that you didn't listen to their calls and you didn't

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1 monitor their calls?
 2 A I heard their calls. I didn't monitor
 3 their calls.
 4 Q All right. And your testimony is
 5 that you never heard any of these APs talk about
 6 how Long Leaf earned profits for clients or provided
 7 strong returns? That's your testimony?
 8 A Correct.
 9 Q Because you know they say that on
 10 substantially every single recorded call we have.
 11 You know that, don't you?
 12 A No, I don't.
 13 Q Well, you'll get to hear some.
 14 If not today, then at trial or summary judgment.
 15 All right. So I want to talk about your delegation
 16 of this task to Brian Adams and Scott Gecas. So
 17 your testimony is that Brian and Scott's job were to
 18 make sure that the customers weren't -- or that the
 19 APs weren't making misrepresentations to customers
 20 and that they were sticking to the approved bullet
 21 points, is that correct?
 22 A Correct.
 23 Q All right. So did Brian or Scott ever,
 24 you know, report to you that they heard somebody,

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1 one of the APs say something they weren't supposed
 2 to say?
 3 A I don't remember them reporting anything
 4 to me.
 5 Q Do you remember them reporting anything
 6 to anybody else?
 7 A I know they would have conversations
 8 with APs, though I don't know the content of the
 9 conversations.
 10 Q Do you know if -- well, strike that. So
 11 do you know if Scott Gecas or Brian Adams actually
 12 had words with any of the APs about saying things
 13 to clients that were misleading or not approved?
 14 A I don't remember any specific instance
 15 of it. However, I know they had conversations about
 16 present -- about the solicitation with APs.
 17 Q All right. When you say you know
 18 they had conversations about solicitations with
 19 APs, what are you talking about? Did the APs --
 20 did one of the APs do something wrong? Did they
 21 just explain it? What conversations are you
 22 referring to?
 23 A There was a small office outside
 24 of our office, which was joint space, where

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1 they would go and talk with the APs specifically
 2 about the solicitation and I was not part of those
 3 meetings.
 4 Q Okay. So do you know what happened
 5 in those meetings?
 6 A The only thing I know was that they had
 7 a meeting talking about solicitation.
 8 Q Okay. When did that meeting happen?
 9 A It would happen off and on, you know,
 10 over a period of time, and it would be different
 11 APs with Brian or different APs with Scott.
 12 Q And you were not in any of those meetings?
 13 A No.
 14 Q Were there any disciplinary actions
 15 taken against any of the APs by Gecas or Adams for
 16 like, I don't know, straying from the bullet points
 17 or saying things they weren't supposed to say?
 18 A No.
 19 Q Any reports placed in any of the APs'
 20 personnel files, anything like that?
 21 A No.
 22 Q So did you ever ask Gecas or Adams
 23 whether the solicitations were proceeding according
 24 to the bullet points, if there were anybody breaking

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| <p style="text-align: right;">Page 21</p> <p>1 the rules?</p> <p>2 A Yes, I would have meetings with Scott</p> <p>3 every other week both on trading and solicitations.</p> <p>4 Q All right. Did he ever tell you</p> <p>5 that any -- so during these biweekly meetings</p> <p>6 your testimony is you would ask Mr. Gecas whether</p> <p>7 any of the APs had strayed from the bullet points</p> <p>8 or made potentially misleading statements. That's</p> <p>9 your testimony?</p> <p>10 A Yeah.</p> <p>11 Q What did he tell you -- I should ask</p> <p>12 you this. Did he ever tell you, yes, that some of</p> <p>13 them had strayed from the bullet points or yes, some</p> <p>14 of them had made misrepresentations or potentially</p> <p>15 misleading statements to customers? Did Gecas ever</p> <p>16 say that to you?</p> <p>17 A Yes on the point of straying from the</p> <p>18 bullet points. And usually it was somebody who was</p> <p>19 newer and still learning, you know, how to present</p> <p>20 that. No in terms of misleading.</p> <p>21 Q All right. Did Mr. Gecas, like</p> <p>22 when he reviewed solicitations, do you know if</p> <p>23 he like listened to recorded calls or just stood</p> <p>24 over people? What was his method of making sure</p> | <p style="text-align: right;">Page 23</p> <p>1 everything verbally.</p> <p>2 Q Okay. Did you ask Mr. Gecas to make any</p> <p>3 written reports to you about compliance?</p> <p>4 A No.</p> <p>5 Q All right. So, you know, in this</p> <p>6 CFTC Exhibit 478, your discovery requests, you</p> <p>7 know -- all right. Let me just ask you. So</p> <p>8 Mr. Gecas' -- Mr. Gecas' responsibility, is it</p> <p>9 fair to say, was to monitor AP calls for compliance?</p> <p>10 Is that right?</p> <p>11 A Correct.</p> <p>12 Q All right. So when you say compliance,</p> <p>13 compliance with what?</p> <p>14 A In compliance with NFA rules,</p> <p>15 CFTC rules and the approved documentation we have</p> <p>16 on the solicitation.</p> <p>17 Q All right. So, Mr. Gecas, is he -- was</p> <p>18 he an attorney?</p> <p>19 A No.</p> <p>20 Q Had Mr. Gecas ever done compliance</p> <p>21 work before he worked for Long Leaf Trading?</p> <p>22 A Not that I know of.</p> <p>23 Q All right. So Mr. Gecas, where did he</p> <p>24 go to college?</p> |
| <p style="text-align: right;">Page 22</p> <p>1 that nobody said anything that could be construed</p> <p>2 as a misrepresentation, if you know?</p> <p>3 A Typically he would listen in to</p> <p>4 the conversation. As I said, the system had</p> <p>5 the capability for somebody to listen in to the</p> <p>6 actual call.</p> <p>7 Q Did Mr. Gecas do that?</p> <p>8 A Yes.</p> <p>9 Q And how did he, like, select the calls</p> <p>10 to listen to?</p> <p>11 A Typically it was somebody who</p> <p>12 was in a training mode. He would listen to</p> <p>13 their conversations, somebody who was either new</p> <p>14 or new to the next step or something like that.</p> <p>15 Q So your testimony is the calls</p> <p>16 that Mr. Gecas monitored were new people's calls,</p> <p>17 is that right?</p> <p>18 A As I said, typically, yes.</p> <p>19 Q All right. Did Mr. Gecas make any</p> <p>20 written reports back to you about compliance with</p> <p>21 the bullet points or anything really?</p> <p>22 A No.</p> <p>23 Q Did you ask him to?</p> <p>24 A We were a small office. We tended to do</p> | <p style="text-align: right;">Page 24</p> <p>1 A He had one year of college. I don't</p> <p>2 remember the university.</p> <p>3 Q All right. So what possible</p> <p>4 qualifications could Mr. Gecas have to supervise</p> <p>5 compliance for 12 APs at your introducing broker</p> <p>6 firm?</p> <p>7 A He had a Series 3.</p> <p>8 Q When did he acquire that Series 3?</p> <p>9 A I don't know the exact date.</p> <p>10 Q All right. What other qualifications</p> <p>11 did Mr. Gecas have?</p> <p>12 A He had options trading experience. He had</p> <p>13 worked in sales.</p> <p>14 Q I meant to be a compliance guy.</p> <p>15 A He had the Series 3.</p> <p>16 Q Anything else?</p> <p>17 A Not that I know of.</p> <p>18 Q All right. So for December of 2017</p> <p>19 through December of 2018 when Mr. Gecas was by</p> <p>20 your account charged with monitoring the APs' calls,</p> <p>21 he was soliciting customers himself during this</p> <p>22 period, isn't that correct?</p> <p>23 A Correct.</p> <p>24 Q Did you ever listen to any of Mr. Gecas'</p> |

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| <p style="text-align: right;">Page 25</p> <p>1 calls from this period?</p> <p>2 A After Mr. Adams left, yes.</p> <p>3 Q Sorry. Say it one more time, please.</p> <p>4 A After Mr. Adams left, yes.</p> <p>5 Q All right. So after -- your testimony</p> <p>6 is that after June of 2018, you started listening</p> <p>7 to Mr. Gecas' calls with customers?</p> <p>8 A Some of them, yes.</p> <p>9 Q How many did you listen to?</p> <p>10 A I don't know an exact number.</p> <p>11 Q Well, did you listen to them -- well,</p> <p>12 let's drill down on that. Do you think you listened</p> <p>13 to 50 calls that Mr. Gecas made?</p> <p>14 A I doubt it was that high.</p> <p>15 Q Did you listen to maybe 25 calls that</p> <p>16 Mr. Gecas made to customers?</p> <p>17 A That seems like a more reasonable range.</p> <p>18 Q How frequently would you listen to</p> <p>19 Mr. Gecas' calls?</p> <p>20 A Typically he was right next to me in</p> <p>21 the office and I would listen basically because</p> <p>22 he was right there. I didn't listen to the phone</p> <p>23 call going on.</p> <p>24 Q Oh, okay. So now you can hear</p> | <p style="text-align: right;">Page 27</p> <p>1 technical questions about trading.</p> <p>2 Q Okay. So which one were you listening to?</p> <p>3 A Both.</p> <p>4 Q Okay. In these five calls did you</p> <p>5 hear Mr. Gecas tell customers that 76.5 percent</p> <p>6 of options expire worthless and that that increases</p> <p>7 the customer's statistical likelihood of success?</p> <p>8 Did you hear him say that?</p> <p>9 A Yes.</p> <p>10 Q Did you hear Mr. Gecas on these</p> <p>11 calls say that one of Long Leaf's principles is</p> <p>12 to provide strong returns and that they wouldn't be</p> <p>13 managing millions of dollars for hundreds of clients</p> <p>14 if they weren't making money for them? Did you hear</p> <p>15 Mr. Gecas say that?</p> <p>16 A I did not.</p> <p>17 Q That's a surprise because he says</p> <p>18 it on almost every single call and settled with</p> <p>19 us on our fraud charges on the basis of those</p> <p>20 representations. So let me ask you this. I just</p> <p>21 don't know how you could have missed those calls.</p> <p>22 What were the calls, these five calls you listened</p> <p>23 to, what were the dates of them? Can you tell me</p> <p>24 so I can hear them?</p> |
| <p style="text-align: right;">Page 26</p> <p>1 what guys are saying around you. So did you ever</p> <p>2 between December 2017 and December 2018, did you</p> <p>3 ever listen to recordings of Mr. Gecas' calls?</p> <p>4 A Yes.</p> <p>5 Q How many?</p> <p>6 A Five or so.</p> <p>7 Q Okay.</p> <p>8 A I don't know an exact number.</p> <p>9 Q All right. And when did you do that?</p> <p>10 A In September-October time frame.</p> <p>11 Q Of 2018?</p> <p>12 A Of 2018, correct.</p> <p>13 Q All right. And when you listened</p> <p>14 to these calls of Mr. Gecas, were they demo calls?</p> <p>15 Were they calls where he was -- where he was</p> <p>16 soliciting customers sort of for the first time?</p> <p>17 A No.</p> <p>18 Q What kind of calls were they that you</p> <p>19 listened to, these five calls?</p> <p>20 A There are two types of calls, one</p> <p>21 where he would be the second -- he would be</p> <p>22 the more senior person giving more information,</p> <p>23 and then the other would be where another AP had</p> <p>24 done the more senior role but they had more</p> | <p style="text-align: right;">Page 28</p> <p>1 A I don't have -- I don't remember what</p> <p>2 calls I listened to.</p> <p>3 Q Yeah, I didn't think so. Well,</p> <p>4 I'll tell you what. Let's turn our attention,</p> <p>5 if we could, please, to Brian Adams. So Brian Adams</p> <p>6 was not there for a long time. He was there -- oh,</p> <p>7 sorry. I've got one more -- you know what, never</p> <p>8 mind. Okay, back to Brian Adams. So Mr. Adams,</p> <p>9 you know, what qualifications did Mr. Adams have</p> <p>10 to be a compliance person?</p> <p>11 A He had a Series 3. He had been</p> <p>12 the sales manager prior to my ownership for</p> <p>13 eight months.</p> <p>14 Q All right. Now, let me ask you</p> <p>15 a strange question. Did Mr. Adams know that he</p> <p>16 was a compliance person?</p> <p>17 A He was --</p> <p>18 Q This ought to be easy. Come on.</p> <p>19 A His role included compliance duties.</p> <p>20 He was not the chief compliance officer.</p> <p>21 Q Who was the chief compliance officer</p> <p>22 during the first four months at Long Leaf?</p> <p>23 MR. FALVEY: Of Jim's time at Long Leaf?</p> <p>24 MR. BURDEN: Yes, thank you.</p> |

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| <p style="text-align: right;">Page 29</p> <p>1 A Up until Tim Evans left, which was 2 February, he was the chief compliance officer for 3 the information -- 4 Q No, no, no, no, no. Mr. Donelson, I hate 5 to cut you off, but we've got a lot to cover and I 6 think maybe you misunderstood my question. During 7 your first four months at Long Leaf Trading, who was 8 the chief compliance officer? 9 A That's what I was answering. Tim 10 Evans was effectively the chief compliance officer 11 until he left in February, and then I was the chief 12 compliance officer. 13 Q After February of 2018? 14 A Um-hmm. 15 Q That's a yes? 16 A Yes, yes. I'm sorry, yes. 17 Q All right. I'm going to come back 18 to that one. Let's stay on Brian Adams. So was 19 Mr. Adams an attorney? 20 A No. 21 Q All right. Had Mr. Adams previously 22 served in any compliance role, to your knowledge, 23 before working at Long Leaf? 24 A I don't know.</p> | <p style="text-align: right;">Page 31</p> <p>1 I do not have any written confirmation confirming 2 what additional responsibilities are associated 3 with this position or any official change in 4 job title." Is that true? 5 A Yes. 6 Q And then he goes on to say, "Given that 7 I do not have previous experience in a compliance 8 role, nor have I received formal training for it, 9 I do not currently have a full understanding of the 10 responsibilities and liabilities of this position." 11 Is Mr. Adams right about that? 12 A He has previous experience in a compliance 13 role. He was the sales manager at Long Leaf prior 14 to my acquisition. 15 Q Yeah. All right. Well, it sounds like 16 your testimony is he was the sales manager, not the 17 compliance manager, is that correct? 18 A But that is a compliance role. 19 Q What's your basis for saying that? 20 A He had direct responsibility for APs. 21 Q And that was before you started at Long 22 Leaf, wasn't it? 23 A Correct. 24 Q So why did he -- what reason do you</p> |
| <p style="text-align: right;">Page 30</p> <p>1 Q Did you ever ask him? 2 A No. 3 Q All right. So Mr. Adams, where did he 4 go to school? What did he study? 5 A I don't know the university. 6 Either North Carolina or North Carolina State, 7 one of those (inaudible) schools, and he studied 8 economics, I believe. 9 Q All right. Did he finish? 10 A To my knowledge, yeah. 11 Q All right. Let's take a look, if we could, 12 please, at CFTC Exhibit 419. 13 A Okay. 14 Q All right. Do you recognize this document? 15 A Yes. 16 Q What is it, please. 17 A It's an email from Brian to myself. 18 Q All right. I want to direct your 19 attention -- and it is dated May 22, 2018. I want 20 to direct your attention to the third paragraph. 21 Mr. Adams says, "In March or April of this year 22 you asked me to sign a document agreeing to be 23 in a compliance role for the company, which would 24 effectively make me a principal of Long Leaf.</p> | <p style="text-align: right;">Page 32</p> <p>1 have to think that he was ensuring APs' compliance 2 with NFA and CFTC rules and also not defrauding 3 customers? 4 A Can you ask that question again? 5 I'm confused as to are you talking before I bought 6 the company or after I bought the company? 7 Q I'm talking about before. So your 8 testimony, you seem to be under the apprehension 9 that because Mr. Adams was a sales supervisor before 10 you joined the company, that there were compliance 11 responsibilities attendant to that. Is what I said 12 correct? 13 A Correct. 14 Q All right. So why do you think that? 15 It sounds like Mr. Adams didn't think that, reading 16 Exhibit 419. 17 A That is what Mr. Evans told me before 18 I acquired the firm. 19 Q Oh, when did he tell you that? 20 A During November of 2017. 21 Q Oh, are we going to see something 22 in writing where Mr. Evans says don't worry about 23 compliance; Mr. Adams is the compliance guy? 24 A No, this was a conversation.</p> |

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1 Q All right. And why would that be the
2 case if, according to your testimony, Mr. Evans was
3 the chief compliance officer?

4 A There's still -- he said there's
5 still a compliance role that he had regarding
6 representations -- or not representations. Strike
7 it. Versus the APs' solicitation.

8 Q All right. That didn't make any sense,
9 but I'm going to leave it alone. So looking at
10 Exhibit 419, it seems like Mr. Adams did not know
11 he was the compliance guy and did not want to be
12 a compliance guy. Would you agree with that
13 statement?

14 A I would agree that is his opinion.

15 Q But you disagree with that opinion?

16 A No. I said I would agree that is his
17 opinion.

18 Q Yeah. But I'm asking you -- you say
19 that like maybe you have a different opinion, like
20 he doesn't think he works in compliance but you
21 think he does.

22 A He works in compliance, but he is not the
23 chief compliance officer.

24 Q All right. And Mr. Evans, I think you

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1 testified, your testimony is that he was the
2 chief compliance officer until February of 2018?

3 A On paper, yes, he was. He was there
4 through --

5 Q Okay.

6 A He was there through January.

7 Q Oh, okay. And where was he in February?

8 A He was not in the office.

9 Q Where was he? You know where he was.

10 A He might have been in Mexico. He was also
11 a couple other places, North Carolina.

12 Q Okay. Well, where was he in January?

13 A He was in the office and then he
14 would be in Mexico for a little bit and he would
15 be in North Carolina for a little bit.

16 Q All right. That's what you want
17 from a compliance officer. And your testimony
18 is that after February of 2018, you took over as
19 the compliance officer, is that right?

20 A Correct.

21 Q So I'm not saying that there's some
22 requirement to this effect but, you know, is there
23 any formal documentation of your role as the chief
24 compliance officer?

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1 A The NFA filing system has me listed
2 as that.

3 Q Okay. So you filed with the NFA
4 and you said I'm the chief compliance officer?

5 A Um-hmm.

6 Q Yes?

7 A Yes.

8 MR. FALVEY: You have to say yes.

9 BY MR. BURDEN:

10 Q All right. So from February 2018
11 onwards you were in charge of compliance, correct?

12 A Correct.

13 MR. BURDEN: All right. You guys,
14 we've been going for an hour. I want to take
15 a quick break, but it's primarily to retrieve
16 a document which I may or may not want to show
17 you after the break. So can we break for ten,
18 please.

19 MR. FALVEY: Sure.

20 MR. BURDEN: All right. Off the record.

21 Thanks.

22 (Whereupon a recess was taken from
23 10 a.m., to 10:20 a.m., after which
24 the following proceedings were had:)

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1 MR. BURDEN: So can we go back on
2 the record, please, Mary. Yep, very good.
3 Thank you.

4 Q All right. I emailed you what we've
5 marked as CFTC Exhibit 485. Mr. Donelson, are these
6 the bullet points that you were previously referring
7 to?

8 A Yes.

9 Q All right. So CFTC Exhibit 485
10 you understood to be talking points that would
11 accompany the presentation we saw in 382, is that
12 correct?

13 A Correct.

14 Q And your understanding is that these
15 received a no comments letter from the NFA, is
16 that correct?

17 A Correct.

18 Q And your belief is that the APs were
19 using this demo outline in their solicitation of
20 customers, is that correct?

21 A Correct.

22 Q All right. You guys really can put
23 that one away for now. I just wanted to make sure
24 that I understood what you thought was this demo

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| <p style="text-align: right;">Page 37</p> <p>1 outline.</p> <p>2 A Okay.</p> <p>3 Q All right. So I want to go back</p> <p>4 to CFTC Exhibit 419, your discovery responses.</p> <p>5 So, Mr. Donelson, when did you start monitoring</p> <p>6 AP calls?</p> <p>7 A After Scott Gecas left.</p> <p>8 Q And that was December 2018?</p> <p>9 A Correct.</p> <p>10 Q All right. So how did you monitor oral</p> <p>11 communications or AP calls?</p> <p>12 A At that time there was only three APs</p> <p>13 there and we had a smaller office. Well, at that</p> <p>14 time we were still in the same office but they were</p> <p>15 all closer, and we also were working on a brand new</p> <p>16 presentation. So we really weren't doing a lot of</p> <p>17 solicitation in late December or January.</p> <p>18 Q Yeah, but I'm talking about your</p> <p>19 monitoring of calls from December of 2018 through</p> <p>20 December 2019. I want to ask about that whole year.</p> <p>21 So you were monitoring oral communications with</p> <p>22 customers during that period of December 2018</p> <p>23 through December 2019, correct?</p> <p>24 A Correct.</p> | <p style="text-align: right;">Page 39</p> <p>1 Q Well, do you remember -- it always</p> <p>2 drives me crazy when people say I don't remember</p> <p>3 specifically because it makes me think they remember</p> <p>4 something generally or something they can't put</p> <p>5 a date on. So let me ask you, Mr. Donelson, do</p> <p>6 you remember generally listening to recordings of</p> <p>7 Mr. Cybulski, Mr. Hatzigiannis or Mr. Stemper's</p> <p>8 calls?</p> <p>9 A I remember listening to recordings, but</p> <p>10 specific ones I couldn't tell you.</p> <p>11 Q How frequently would you listen</p> <p>12 to recordings of Mr. Cybulski, Hatzigiannis or</p> <p>13 Stemper's calls?</p> <p>14 A Every two weeks, a few of them I would</p> <p>15 listen to.</p> <p>16 Q How would you determine which ones you</p> <p>17 would listen to?</p> <p>18 A It would be prospective clients, not</p> <p>19 actual clients. No actual solicitation process.</p> <p>20 Q Got it. So every couple of weeks</p> <p>21 you would listen to a few calls from each of your</p> <p>22 APs and you would focus on calls that they made</p> <p>23 to prospective customers?</p> <p>24 A Correct.</p> |
| <p style="text-align: right;">Page 38</p> <p>1 Q All right. And during that period you</p> <p>2 only had three APs to monitor, right?</p> <p>3 A Correct.</p> <p>4 Q That's Cybulski, right?</p> <p>5 A Yes.</p> <p>6 Q Hatzigiannis?</p> <p>7 A Hatzigiannis, yes.</p> <p>8 Q And Stemper, correct?</p> <p>9 A Correct.</p> <p>10 Q And how did you monitor the three APs'</p> <p>11 calls with customers?</p> <p>12 A Basically I overheard every one</p> <p>13 of their calls. We were in a small office, very</p> <p>14 close to each other.</p> <p>15 Q And you were in the same room as the --</p> <p>16 sorry. Keep going.</p> <p>17 A Yeah, I was in the same room.</p> <p>18 Q You were in the same room as the three</p> <p>19 APs?</p> <p>20 A Correct.</p> <p>21 Q Did you listen to recordings of those</p> <p>22 APs' calls?</p> <p>23 A I don't remember specifically listening</p> <p>24 to recordings.</p> | <p style="text-align: right;">Page 40</p> <p>1 Q All right. In your monitoring of your</p> <p>2 APs' oral communications, did you ever hear anything</p> <p>3 that you considered to be noncompliant with NFA or</p> <p>4 CFTC rules?</p> <p>5 A Can you restate the question?</p> <p>6 Q Did you ever hear any of your APs</p> <p>7 say anything that you considered to violate NFA</p> <p>8 or CFTC rules?</p> <p>9 A No.</p> <p>10 Q So you were the compliance officer</p> <p>11 during the period December 2018 through December</p> <p>12 2019, if not earlier as well. Did you ever hear</p> <p>13 any of the APs say anything that you considered</p> <p>14 not to be compliant?</p> <p>15 A No.</p> <p>16 Q Did you ever hear any of the APs say</p> <p>17 anything that you considered to be misleading to</p> <p>18 potential or existing customers?</p> <p>19 A No.</p> <p>20 Q Did you ever hear any of the APs tell</p> <p>21 customers or prospective customers that there was</p> <p>22 a statistical likelihood that they would succeed in</p> <p>23 trading with Long Leaf?</p> <p>24 A No.</p> |

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1 Q Did you ever hear any of the APs
2 tell customers that one of Long Leaf's values was
3 to create strong returns for clients?
4 A Can you clarify the time frame?
5 We were talking about 2019 and now are we back
6 to 2018 through '19?
7 Q I should clarify the time frame.
8 The time frame is ever, but it seems to me like --
9 well, don't worry about what it seems like to me.
10 Did you ever hear any of the APs tell customers that
11 one of Long Leaf's values was to create a strong
12 return for customers?
13 A Yes.
14 Q All right. And what did you do about that
15 or did you consider that that was okay?
16 A I considered it a statement of the
17 company's values as it was stated.
18 Q Okay. So you heard APs say this and
19 you didn't consider that it was false or misleading
20 or violative, correct?
21 A No.
22 Q Did you say yeah?
23 A I said no.
24 Q Sorry. You know what, I asked the

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1 question badly. Let me ask it again. When APs --
2 when you overheard APs tell customers that it was
3 one of Long Leaf's values to provide a strong return
4 for customers, did you consider that this was
5 misleading?
6 A No.
7 Q Did you hear -- did you ever hear
8 APs tell customers that they wouldn't be managing
9 millions of dollars for hundreds of clients if they
10 weren't making a profit for those clients?
11 A No, I don't remember hearing that.
12 Q Did you ever hear any AP tell anybody
13 that Long Leaf's strategies target 6 to 12 percent
14 returns on an annual basis?
15 A Yes, in 2019.
16 Q All right. And did you consider that that
17 was misleading?
18 A No, and it was a new strategy.
19 Q Well, we'll get to that. You know,
20 I asked this question before, but I think it sort
21 of got messed up. Did you ever hear Long Leaf APs
22 tell customers that there was a strong statistical
23 likelihood of success with their trading at Long
24 Leaf?

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1 A No.
2 Q All right. Did you ever write any of
3 the APs up or otherwise discipline them for making
4 misstatements or, you know, being noncompliant?
5 A No.
6 Q Did you ever, you know, create any
7 written work product, like a log or memos relating
8 to your review of the APs' oral communications with
9 customers?
10 A No.
11 Q Did you ever create any work product,
12 like memos or logs, in connection with your role
13 at Long Leaf as the chief compliance officer?
14 A The complaint log.
15 Q And is that something that you generated
16 or is that something that was already in the file
17 that you inherited from Mr. Evans I should have
18 said?
19 A It was a continuous document. So
20 there's documents from when he was the owner and
21 then I would add on to it, so I had one complaint
22 log history.
23 Q Got it. So anything other than the
24 complaint log? Did you generate anything other

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1 than this complaint log in connection with your role
2 as the chief compliance officer?
3 A No.
4 Q Did Long Leaf Trading have any written
5 compliance policies?
6 A Yeah.
7 Q All right. And who created those?
8 A They were part of the acquisition
9 documents, so I am assuming Tim Evans created them
10 Q Did you either create or cause to
11 be created any policies or procedures for Long
12 Leaf Trading?
13 A We amended those documents that were
14 created. They were (inaudible).
15 Q I want to go back to CFTC Exhibit 478,
16 if we ever left it, in your discovery responses.
17 So it says here on the third page Review of Written
18 Communications. "At the end of each month," it
19 says, "Mr. Donelson would review all communications
20 with prospects and customers. If any of these
21 communications needed followup, Mr. Donelson would
22 have a conversation with the specific AP as to the
23 context of communications and any other pertinent
24 details related to the communications." Is that

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| <p style="text-align: right;">Page 45</p> <p>1 true?</p> <p>2 A Yes.</p> <p>3 Q So you reviewed all written</p> <p>4 communications, all of the emails between your</p> <p>5 APs and their customers, prospective customers?</p> <p>6 A All would not necessarily be true. I</p> <p>7 would not review when they sent out a recommendation</p> <p>8 because it -- very little -- there were very little</p> <p>9 emails between APs and prospective customers or</p> <p>10 customers.</p> <p>11 Q Yeah. So this is not correct then</p> <p>12 when you say at the end of each month Mr. Donelson</p> <p>13 reviewed -- would review all communications with</p> <p>14 prospects and customers? That's a false statement?</p> <p>15 A I would review all communications with</p> <p>16 prospects. However, on the recommendations, I would</p> <p>17 not review those.</p> <p>18 Q All right. Except that Exhibit 478</p> <p>19 says at the end of each month Mr. Donelson would</p> <p>20 review all communications with prospects and</p> <p>21 customers. So that statement is false? Anytime</p> <p>22 you're ready.</p> <p>23 A Yes, in the sense of I did not review</p> <p>24 customer recommendation emails.</p> | <p style="text-align: right;">Page 47</p> <p>1 if you set up an appointment, it would create an</p> <p>2 email, so on and so forth.</p> <p>3 Q And did you review the APs' written</p> <p>4 communications in this manner, you know, for your</p> <p>5 entire tenure at Long Leaf?</p> <p>6 A Yes.</p> <p>7 Q All right. So I want to switch gears</p> <p>8 a little bit and talk about your role generally</p> <p>9 as a chief compliance officer. So, Mr. Donelson --</p> <p>10 you know, I'll tell you what. Let's do some of</p> <p>11 that later. But let me ask you instead so at the</p> <p>12 time you were chief compliance officer there were</p> <p>13 three APs in the office, is that right?</p> <p>14 A In 2019, correct.</p> <p>15 Q Yeah. But you were chief compliance</p> <p>16 officer in 2018 as well, right? Listen, I've got</p> <p>17 this information, but I don't have it in front of</p> <p>18 me. Maybe we can just figure it out quickly here.</p> <p>19 You know, when you started at Long Leaf Trading,</p> <p>20 there were 12 APs, right?</p> <p>21 A Correct.</p> <p>22 Q At some point you'd winnowed it down or</p> <p>23 circumstances had winnowed it down to just three</p> <p>24 APs, Cybulski, Stemper and Hatzigiannis, correct?</p> |
| <p style="text-align: right;">Page 46</p> <p>1 Q All right. So did you review all</p> <p>2 of the other emails with customers and prospective</p> <p>3 customers?</p> <p>4 A Yes.</p> <p>5 Q All right. How did you do that, please.</p> <p>6 A By pulling up the data in the email</p> <p>7 archives and then filtering it for the sender,</p> <p>8 the receiver. There's multiple filters you have</p> <p>9 to put on it to just get who sent what to who.</p> <p>10 For example, every day we got a statement from</p> <p>11 Cunningham. Like it's not something we were</p> <p>12 reviewing.</p> <p>13 Q Got it. So how frequently, Mr. Donelson,</p> <p>14 would you review your APs' communications with</p> <p>15 customers and prospective customers?</p> <p>16 A Monthly, monthly.</p> <p>17 Q So every month you would sit there</p> <p>18 in the office and look at all of the emails, except</p> <p>19 recommendations, that your APs sent to all of the</p> <p>20 customers and prospective customers, is that right?</p> <p>21 A Correct.</p> <p>22 Q How long did that take you?</p> <p>23 A Not very long since there wasn't a lot</p> <p>24 of email communication, or they were things like</p> | <p style="text-align: right;">Page 48</p> <p>1 A Correct.</p> <p>2 Q So when were you sort of down to just</p> <p>3 those three?</p> <p>4 A From December 2018 on.</p> <p>5 Q Got it, okay. All right. Mr. Donelson,</p> <p>6 are you an attorney?</p> <p>7 A No.</p> <p>8 Q Before joining Long Leaf have you ever</p> <p>9 held a compliance position?</p> <p>10 A Yes.</p> <p>11 Q What was that position?</p> <p>12 A I was the FinOP for multiple broker-dealers</p> <p>13 at Getco.</p> <p>14 Q And what is FinOP, please.</p> <p>15 A It requires a Series 27. Effectively</p> <p>16 it is the filing of all the 1-FRs, the -- any type</p> <p>17 of financial information under SEC rules.</p> <p>18 Q All right. So, in fact, you do have</p> <p>19 a pretty good background in compliance. Would you</p> <p>20 agree with that statement?</p> <p>21 A Pretty good is a relative statement.</p> <p>22 I have some background in compliance.</p> <p>23 Q All right. Well, would you agree</p> <p>24 that you were qualified to be the chief compliance</p> |

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1 officer of Long Leaf Trading?
 2 A Yes.
 3 Q All right. So when you started
 4 as chief compliance officer at Long Leaf Trading,
 5 you -- would it be fair to say that you had a
 6 working knowledge of NFA and CFTC rules?
 7 A Some of them. Some of them I did not.
 8 Q All right. Which ones didn't you
 9 have knowledge of that wound up becoming important
 10 later?
 11 A The question of a CTA, being the
 12 qualifications and registration. I would just
 13 say some of the more administrative rules around it.
 14 Q Give me an example, if you would, please.
 15 A The specific KYC rules, I had
 16 experience with KYC but not in this context. So
 17 while I was familiar with KYC, I wasn't familiar
 18 what the specific rules of the NFA were fairly
 19 close. Other than that, I can't think of specific
 20 issues. It was mostly --
 21 Q Sorry, I cut you off. What was that last
 22 little bit again, please.
 23 A You know, mostly the administrative
 24 side, which is not where I ever really spent the

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1 kind of time in administration of compliance
 2 rules.
 3 Q Had you ever before joining Long Leaf been
 4 chief compliance officer of a company?
 5 A No.
 6 Q Is it fair to say that your compliance
 7 duties before joining Long Leaf were related to
 8 accounting and financial details of broker-dealers?
 9 A Predominantly, yes.
 10 Q Because you're an accountant?
 11 A I have an accounting degree, yeah.
 12 Q All right. So I want to talk about
 13 some of the people that worked at Long Leaf. While
 14 you were chief compliance officer you supervised the
 15 compliance of everybody at the firm, correct?
 16 A Correct.
 17 Q Yeah, I hope so.
 18 A I did --
 19 Q What?
 20 A Nothing.
 21 Q All right. And, sorry, if you're going
 22 to say something, we've got a small lag and that's
 23 why I keep jumping on you. What was that, please.
 24 A No, nothing more.

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1 Q All right. And your wife worked
 2 at Long Leaf Trading, Mrs. Donelson, isn't that
 3 correct?
 4 A Correct.
 5 Q All right. When did she start, please.
 6 A July 2018.
 7 Q All right. And is it fair to say that
 8 one of her jobs was account opening documentation?
 9 A It was assisting the clients to open
 10 an account, yes.
 11 Q All right. And one of your APs was named
 12 Ben Cybulski. Did Mr. Cybulski have a connection
 13 to your family in some way?
 14 A He is my daughter's boyfriend.
 15 Q And was Mr. Cybulski your daughter's
 16 boyfriend during the period January -- sorry,
 17 December 2018 through December 2019?
 18 A Yes.
 19 Q And, in fact, you hired him because he's
 20 your daughter's boyfriend, right?
 21 A Not because he was my daughter's boyfriend.
 22 Q Was he your daughter's boyfriend when you
 23 hired him?
 24 A Yes.

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1 Q I apologize if I already asked you
 2 this. Is he currently your daughter's boyfriend?
 3 A Yes.
 4 Q All right. And I hate to twist the
 5 knife, but you know that he's taking the Fifth,
 6 right?
 7 A I don't know that --
 8 Q Your lawyer didn't tell you that,
 9 that we took his deposition and he invoked the
 10 Fifth Amendment with respect to every question?
 11 A I know he took the Fifth, but I don't know
 12 why. I don't know anything about it. He doesn't
 13 discuss it with me.
 14 Q Yeah, I bet he doesn't. You know he
 15 is going to testify against you, right? I take
 16 that back. He is going to be called as a witness
 17 against you. I don't know if he will testify or
 18 not. You've got to understand that, right?
 19 A I understand it.
 20 Q Did you see him on our witness list?
 21 Did you see our witness list?
 22 A Yeah.
 23 Q Did you see his name on there? Did you
 24 see Mr. Cybulski's name?

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1 A Yeah.

2 Q All right. So you're supervising

3 your wife and your daughter's boyfriend. I've got

4 to ask, I mean, does Stemper or Hatzigiannis have

5 any connection to your family?

6 A No.

7 Q Yeah, I didn't think so. I just --

8 I had to ask. All right. Now, your daughter

9 Stephanie Donelson, did she work at Long Leaf

10 Trading?

11 A No.

12 Q But she did prepare solicitation materials

13 for Long Leaf Trading, correct?

14 A She helped with the design, the colors,

15 the -- things like that, not the content.

16 Q Good. All right. Now, I know we're

17 jumping around a bit but, you know, I have to

18 be flexible and sort of go where the conversation

19 takes us. I want to take us back, if I could,

20 please. Would you turn in the PDF portfolio,

21 please, to CFTC Exhibit 381.

22 A Um-hmm. I am there, sorry.

23 Q All right. Mr. Donelson, would you take

24 a moment to look at the document, please, and then

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1 tell me if you recognize it.

2 A Yes, I recognize it.

3 Q What is CFTC Exhibit 381, please.

4 A This is -- I don't remember the word

5 we used for it.

6 Q What?

7 A I don't remember the word we used for it.

8 Q So I'll tell you what. If this will

9 help, so CFTC Exhibit 381 was produced by you on

10 September 7, 2018. The filing is Rebuttals.docx.

11 The metadata says it was created on July 25, 2018

12 and saved by you, and it is Doc Revision No. 2.

13 The Bates number is Long Leaf Trading 378293.

14 Does that help?

15 A It's a list of rebuttals, yes.

16 Q All right. So what's this document,

17 please.

18 A It's a training document for APs in how

19 to manage a customer conversation.

20 Q All right. And how long did APs use this

21 training document for?

22 A I honestly don't know.

23 Q Who wrote it?

24 A Honestly, I don't know.

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1 Q All right. Well, you saved it, right?

2 A I scanned it and saved it, yes.

3 Q When did you scan it, please.

4 A Probably in June, the date that you're

5 looking at.

6 Q So you think that you scanned this

7 in June of -- in June -- well, the metadata says

8 it was created on July 25, 2018.

9 A That's probably when I scanned it.

10 It wasn't --

11 Q Okay. So you scanned this document.

12 That means you had a hardcopy of it, right?

13 A Yeah, somebody -- Andrew produced it to

14 me, Andrew Nelson, and I scanned it.

15 Q All right. And what were the circumstances

16 under which he gave it to you?

17 A We were putting -- pulling together all

18 of the training documentation.

19 Q All right. How long was CFTC Exhibit 381

20 in use at Long Leaf for?

21 A I honestly don't know. We stopped

22 using it in August or September of 2018. But was it

23 in existence before I got there, I don't know.

24 Q All right. So your testimony is

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1 CFTC Exhibit 381, this rebuttals document,

2 Long Leaf Trading stopped using this in August or

3 September of 2018, is that correct?

4 A Correct.

5 Q All right. But up until then this

6 was something that APs used for rebutting customer

7 objections, is that correct?

8 A Correct.

9 Q All right. So there's two pieces

10 of this I want to focus on, and they ought to be

11 familiar to you by now. The past performance

12 request section, which is on page -- oh, Lord --

13 it's on page 3. Are you with me?

14 A Um-hmm.

15 Q All right. So Past Performance

16 Request it says, "I can sit here and show you

17 trades and wow you or something like that, but I'm

18 not going to do that because now you're going to be

19 basing your decision on what I did in the past, and

20 the market conditions moving forward are not going

21 to be the same. But what I can do for you is give

22 you the structure of the program that puts you in

23 a position to try this out in a way that will make

24 you feel comfortable and put you in a position to

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1 hit your targeted goal, and I can do that in a
2 way where you'll never turn around and say what
3 the heck happened. You'll be comfortable with
4 it." And then he goes on to say other stuff.

5 So is this something that
6 you've heard APs tell to customers or prospective
7 customers?

8 A The first one I heard.

9 Q Which one did you hear APs telling
10 prospective customers?

11 A I heard the I can sit here and
12 show you trades and wow, the wow word. I don't
13 necessarily -- I mean, these are like one off each
14 apart, so I don't remember hearing any of the other
15 four.

16 Q Got it. Well, let's go to the next
17 page, if we could, please, and it's the bit that
18 says Structure More Important than Performance.
19 It says here -- you know, I guess APs are supposed
20 to say, and I'm looking at the second paragraph,
21 "Where our program is unmatched and has been so
22 successful is the actual structure of it. It's
23 four trades a month that happen in the same time
24 frame toward the end of the month and we're

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1 following an execution strategy that both me and
2 you designed in the beginning before even getting
3 started."

4 Did you hear APs saying that to
5 customers and prospective customers?

6 A I remember hearing the last sentence.
7 I don't remember hearing the first sentence.

8 Q So what's the last sentence? What's
9 the sentence you heard APs tell customers and
10 prospective customers?

11 A It's four trades a month that happen
12 in the same time frame in the month and following
13 an execution strategy that both you and me designed
14 in the beginning before even getting started.

15 Q Oh, so you heard that part but you
16 never heard the first sentence where they say where
17 the structure of the program is unmatched and has
18 been so successful is the structure, but you never
19 heard that bit?

20 A I don't remember hearing it, no.

21 Q All right. Sorry to hop around.
22 Can we go to -- can we go back to page 3, please,
23 and there's this bit where it says Closing Off
24 Accountability/Trustworthiness/Our Ideas. I want

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1 to direct your attention to the fifth paragraph.

2 So it says, "We are very confident because we are
3 good at what we do, and you're never really going
4 to know that until you actually try it. But we
5 are so confident in what we do and confident that
6 we can make those your results that we work on a
7 one-month contract. We only make money when we
8 execute positions and you only execute positions
9 if you're winning and making money."

10 Did you hear APs at any point
11 say that to a prospective customer or a customer?

12 A I am not finding that on page 3.

13 Q All right. Do you see where it says
14 Closing Off Accountability/Trustworthiness/Our Ideas
15 at the top?

16 A Yeah.

17 Q Now count five paragraphs down.

18 A Oh, I'm sorry. I'm on the wrong page.
19 Okay.

20 Q All right. So what this Rebuttals
21 Document 381 says here, "We are very confident
22 because we are good at what we do, and you're never
23 really going to know that until you actually try it.
24 But we are so confident in what we do and confident

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1 that we can make those your results that we work
2 on a one-month contract."

3 Did you ever hear any APs say that
4 to a customer or prospective customer?

5 A I heard it being said with respect to
6 customers.

7 Q All right. Who did you hear say that?

8 A Scott Gecas.

9 Q Anybody else?

10 A Not that I can remember.

11 Q Did you tell Scott Gecas, hey, don't
12 say that?

13 A I told him to drop the first part
14 of the line and only talk about it is a one-month
15 contract.

16 Q Did you? Is that in writing anywhere?

17 A No.

18 Q Did you put anything in Mr. Gecas'
19 personnel file about how he'd said something
20 misleading?

21 A No.

22 Q What date did you have this conversation
23 with Mr. Gecas?

24 A I don't remember the date.

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1 Q Do you remember the month?
 2 A Honestly, I don't remember when it was.
 3 Q All right. So when Mr. Gecas
 4 testifies against you, do you think that he's
 5 going to remember that conversation and back you
 6 up on it?
 7 A Yes.
 8 Q Okay. Is there any proof whatsoever that
 9 that conversation happened?
 10 A No written proof.
 11 Q Yeah, I didn't think so.
 12 MR. BURDEN: All right. You guys,
 13 let's, if we could, please, go off the record
 14 for maybe ten minutes. Back in ten, please.
 15 MR. FALVEY: Okay.
 16 MR. BURDEN: Very good. Off the record.
 17 Thank you.
 18 (Whereupon a recess was taken from
 19 11:07 a.m., to 11:22 a.m., after
 20 which the following proceedings
 21 were had:)
 22 MR. BURDEN: All right. Are we ready
 23 to go?
 24 MR. FALVEY: Okay, yep.

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1 BY MR. BURDEN:
 2 Q All right. Mr. Donelson, when you
 3 started at Long Leaf Trading, you began receiving
 4 complaints from customers right away, isn't that
 5 correct?
 6 A Correct.
 7 Q All right. So what were the --
 8 you know, what were customer results under this
 9 Time Means Money program when you started?
 10 A I looked -- after the complaints,
 11 I looked back and the brokers had told me about
 12 a really bad October. So I went back kind of
 13 through October, maybe the first five months before
 14 I acquired it, and they were consistently losing
 15 money.
 16 Q And when did you do this five-month
 17 look-back?
 18 A January of 2018, late.
 19 Q You waited until January 2018 to see
 20 what the results were for this Time Means Money
 21 program?
 22 A Yes.
 23 Q That's the first time you looked
 24 to see if your customers were making or losing

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1 money?
 2 A I knew what happened on the trade
 3 that was just placed. I was going back into the
 4 history.
 5 Q So you didn't go back and see how
 6 these Time Means Money recommendations played
 7 out until you had been at Long Leaf Trading for
 8 a year?
 9 A I'm sorry?
 10 MR. FALVEY: Yeah, I think you're --
 11 it was two months.
 12 BY MR. BURDEN:
 13 Q Oh, okay. So in January 2018. So you've
 14 been there for two months?
 15 MR. FALVEY: Right, right.
 16 BY MR. BURDEN:
 17 Q Mr. Donelson, is that right?
 18 A Yeah.
 19 Q All right. That makes a lot more
 20 sense. We were just looking at CFTC Exhibit 381,
 21 which is the rebuttals. And, you know, a part of
 22 that document trained APs on how to deal with
 23 requests for past performance, right?
 24 A Yes.

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1 Q All right. So what did you instruct
 2 the APs to tell customers when they -- somebody
 3 made a request about past performance?
 4 A Not to provide any.
 5 Q And how did you relay this message to
 6 the APs?
 7 A There was a meeting, a sales meeting
 8 in I want to say early February. We went through a
 9 bunch of different issues, one being not to provide
 10 that. The other, walking them through how to read
 11 a statement, as I found that many of them did not
 12 know how to read the statements.
 13 Q All right. So in early February
 14 of 2018 you had a sales meeting with the APs,
 15 right?
 16 A Correct.
 17 Q And at this meeting you instructed
 18 the APs not to provide customers with anything in
 19 response to requests for past performance, correct?
 20 A Correct.
 21 Q And, in fact, this had been the
 22 policy at Long Leaf before this meeting, right?
 23 A Correct.
 24 Q All right. And this policy of

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1 not providing anything in response to requests
 2 for past performance, how long did that last for,
 3 please.
 4 A Until 2019.
 5 Q What month?
 6 A June or July.
 7 Q All right. We're going to come back
 8 to that.
 9 A Can I just confirm that you guys are
 10 hearing me fine?
 11 Q It's not great, but I can hear you.
 12 MR. BURDEN: Mary, you're the one that
 13 counts. Will you give us a thumbs up if you
 14 can hear Mr. Donelson okay, please.
 15 (Discussion off the record.)
 16 Q All right. So, you know, inevitably
 17 customers were going to ask, you know, APs about
 18 past performance. Did you advise the APs about what
 19 they should do in that circumstance?
 20 A To tell them it's our policy not to
 21 provide past performance.
 22 Q And, in fact, in February of 2019 --
 23 sorry. In fact, by February of 2018, as far as you
 24 knew, the results of Long Leaf Trading's Time Means

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1 Money program were very bad. Is that fair to say?
 2 A It's fair to say, yes.
 3 Q So why did you want to conceal this
 4 from customers?
 5 A We changed our trading in February of 2018.
 6 Q Yeah. But don't you think that
 7 if customers knew that Long Leaf customers had
 8 previously lost a lot of money on recommendations,
 9 they wouldn't want to sign up with Long Leaf
 10 Trading?
 11 A I'm processing your question.
 12 Q Yeah, and I'll tell you what. The
 13 question is withdrawn because it was disastrous
 14 and I'm pretty sure a double negative. So the
 15 reason that you advised APs not to tell anybody
 16 what past performance is was because you were going
 17 to start doing a new type of trading in February
 18 of 2018?
 19 A Correct.
 20 Q All right. So this new type
 21 of trading that you're describing, this is where
 22 Long Leaf transitioned from credit spreads to debit
 23 spreads, is that correct?
 24 A Correct.

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1 Q All right. So with respect to these
 2 trade recommendations that started in February
 3 of 2018, who designed the trade recommendations?
 4 Who decided what was going to be said about them?
 5 A Scott Gecas. And I would do the
 6 mathematics behind the recommendation and describe
 7 it.
 8 Q All right. How long did Scott Gecas
 9 devise the trade recommendations for customers?
 10 A Through December of 2018.
 11 Q So he started in February of '18
 12 and he continued through 2018 -- or, sorry, December
 13 of 2018 in devising these recommendations?
 14 A Correct.
 15 Q And, I'm sorry, what was your role in
 16 devising the trade recommendations?
 17 A Mostly administrative in the sense
 18 of creating the trade recommendation sheets that
 19 you see, putting the math in there, all those
 20 things.
 21 Q So it sounds like Scott Gecas came up with
 22 the trades but you would put together the actual
 23 communications with the -- with the recommendations.
 24 Is that your testimony?

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1 A Correct.
 2 Q All right. So I want to show you what
 3 we've marked as CFTC Exhibit 52. So take a moment
 4 to look at it, please, and tell me what you
 5 recognize it to be.
 6 A It's my introduction to our clients.
 7 Q Got it. So this is a communication you
 8 wrote and you directed your APs to send it to all
 9 the customers, right?
 10 A Correct.
 11 Q All right. So let's take a look here.
 12 It says Long Leaf Trading Update, please, on the
 13 second page of the exhibit.
 14 A Yes.
 15 Q I'm sorry. I'm looking for the
 16 sentence I want to talk about. There we go,
 17 all right. So second paragraph, maybe halfway
 18 through it says -- it's talking about you and it
 19 says that you are working closely with Scott Gecas
 20 on redesigning the trading processes to provide
 21 improved returns and improved transparency, and
 22 you were also focused on reporting on the outcomes
 23 of the trades monthly with a quarterly summary of
 24 results. So did you write that?

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1 A Yes.
 2 Q All right. So let's scoot down,
 3 if we could, please, and the next paragraph talks
 4 about Scott Gecas. And then the third sentence
 5 says, "Scott and Jim share in the development of
 6 the monthly trades and management of the trades
 7 after they are made." So did you write that?
 8 A Yes.
 9 Q So is that right? Did you and Scott
 10 share -- Scott Gecas share in the development
 11 of the trades and the management of the trades?
 12 A Yeah.
 13 Q All right. So I want to talk about
 14 Scott Gecas. When did he start designing these
 15 trading recommendations for Long Leaf?
 16 A I want to say January of 2018 was the
 17 first trade designs.
 18 Q Okay. So was this a job that Mr. Gecas
 19 did before you arrived at Long Leaf?
 20 A He was not doing it at Long Leaf.
 21 Q All right. We already talked a little bit
 22 about Mr. Gecas' qualifications. What experience
 23 did Mr. Gecas have trading options on futures?
 24 A He traded in the SPX pit. He traded

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1 for various proprietary trading firms.
 2 Q Did Mr. Gecas tell you what his results
 3 were, if he was profitable at those trading firms?
 4 A I don't remember.
 5 Q Did you ask him?
 6 A I don't remember.
 7 Q Did Mr. Gecas tell you that as a trader
 8 in the pits he, quote, struggled to break even? Did
 9 he tell you that?
 10 MR. FALVEY: You broke up, Ashley.
 11 BY MR. BURDEN:
 12 Q Did Mr. Gecas tell you that when
 13 he worked as a trader in the pits -- oh, actually,
 14 so strike that. Did Mr. Gecas tell you that when he
 15 worked as a trader, he had struggled to break even?
 16 Did he tell you that?
 17 A I don't remember.
 18 Q Did you do anything to see if Mr. Gecas
 19 was actually a good trader?
 20 A I spoke to someone who was the -- who
 21 worked with him in the past.
 22 Q Okay. What was that person's name?
 23 A Fred Lovely.
 24 Q How do you spell that, please.

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1 A L-o-v-e-l-y.
 2 Q All right. And where did Mr. Lovely work
 3 with Mr. Gecas?
 4 A I don't remember the name of the firm.
 5 Q What did Mr. Gecas tell you about --
 6 sorry. What did Mr. Lovely tell you about
 7 Mr. Gecas' trading or profitability?
 8 A That he wasn't great but he was average.
 9 Q That's what he told you?
 10 A That's what I remember of the conversation,
 11 yes.
 12 Q When did this conversation occur?
 13 A June of 2018.
 14 Q All right. So by that time Mr. Gecas
 15 had already been like working with you designing
 16 these trades for four months, right?
 17 A Yes.
 18 Q All right. And he kept working
 19 for you designing trades until December of 2018,
 20 right?
 21 A Yes.
 22 Q So did Mr. Lovely explain to you what he
 23 meant by Gecas being an average trader?
 24 A He was explaining a very different

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1 context of trading. This is -- they were market
 2 makers slash, you know, day trading.
 3 Q All right. Well, in this very
 4 different context of trading did Mr. Lovely tell
 5 you that Mr. Gecas' trading was profitable?
 6 A Yes, he did say it was profitable.
 7 Q Did he say how profitable it was?
 8 A He said it was breakeven to risk,
 9 which means something different than whether
 10 it's breakeven.
 11 Q Do you know what it means?
 12 A Yeah.
 13 Q What does it mean?
 14 A It's not -- the fact is are you --
 15 is your profit covering the risk you're taking,
 16 the risk-reward calculation.
 17 Q For Mr. Gecas was it?
 18 A It was breakeven at the risk he was
 19 taking, which is --
 20 Q When did -- sorry.
 21 A -- which is what that means.
 22 Q When did Mr. Lovely work with Mr. Gecas?
 23 A In the early 2000s.
 24 Q All right. Did you talk to anybody

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1 more recently about Mr. Gecas?
 2 A No.
 3 Q All right. What else did you do,
 4 if anything, to make sure that Mr. Gecas was
 5 actually a good trader?
 6 A He would walk me through the trades
 7 to see -- point out why he would make a certain
 8 trade.
 9 Q All right. I guess what I'm getting
 10 at is, you know, did you ask Mr. Gecas for any
 11 substantiation that he had traded profitably before
 12 Long Leaf?
 13 A No.
 14 Q So why not?
 15 A I had tried a different Series 3
 16 broker to make the trade and he couldn't do it.
 17 Q Yeah. But like why did Mr. Gecas get
 18 the job?
 19 A He had experience trading.
 20 Q Do you know if that experience was
 21 profitable?
 22 A All I have is the information that
 23 I relayed to you about -- from Mr. Lovely.
 24 Q Yeah. But what about Mr. Gecas,

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1 did Mr. Gecas tell you that his trading had been
 2 profitable before he joined Long Leaf?
 3 A I'm sorry. I lapsed here for a second.
 4 Could you repeat the question?
 5 Q Did Mr. Gecas tell you that he had
 6 been a profitable trader before joining Long Leaf?
 7 A No.
 8 Q Well, did you ask him? Were you like,
 9 hey, Mr. Gecas, were you a good trader before you
 10 worked here?
 11 A I asked his experience, yes.
 12 Q But he didn't tell you if he was profitable
 13 or not?
 14 A No.
 15 Q And you didn't ask?
 16 A Correct.
 17 Q And you let this guy trade people's
 18 retirement accounts?
 19 A Yes.
 20 Q All right. You're next. So after
 21 Mr. Gecas left in December of 2018, you took over
 22 coming up with the trading recommendations, correct?
 23 A Correct.
 24 Q Did you get any help from anyone?

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1 A In what sense?
 2 Q Did anybody else help you come
 3 up with these trading recommendations that you
 4 delivered to customers?
 5 A No.
 6 Q Just you, huh?
 7 A Mr. Hatzigiannis helped me do research
 8 and things like that, but he would not develop the
 9 actual trades.
 10 Q All right. We will get to him in
 11 a moment. Before working at Long Leaf Trading,
 12 had you ever worked as a trader?
 13 A No.
 14 Q And, in fact, you were an accountant by
 15 training, is that correct?
 16 A I'm a finance person, yes.
 17 Q Are you a CPA?
 18 A Yes.
 19 Q Before joining Long Leaf, did you ever
 20 trade -- did you ever trade options or futures for
 21 your own account?
 22 A Yes.
 23 Q How much money did you lose?
 24 A Most of the option trades were hedges

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1 so ...
 2 Q How much money did you lose?
 3 A 30,000 on options.
 4 Q All right. So these options trades
 5 you did where you lost 30 grand, and I understand
 6 they're hedges, did you do any other options or
 7 futures trading for your own account before joining
 8 Long Leaf?
 9 A Yeah.
 10 Q And what was the result of that trading?
 11 A I honestly don't remember.
 12 Q Well, when did the trading occur?
 13 MR. FALVEY: Do you need a break?
 14 THE WITNESS: Yeah.
 15 BY MR. BURDEN:
 16 Q Well, you can't have one. Please finish
 17 answering the question.
 18 MR. FALVEY: After the -- after he answers.
 19 A 2016.
 20 BY MR. BURDEN:
 21 Q All right. Was that trading profitable?
 22 A No.
 23 Q All right. So have we covered all your
 24 options and futures trading for your own account?

| | |
|---|---|
| <p style="text-align: right;">Page 77</p> <p>1 A I believe so.</p> <p>2 MR. BURDEN: All right. Do you guys want</p> <p>3 to take a break then?</p> <p>4 MR. FALVEY: Yeah.</p> <p>5 MR. BURDEN: How long, please.</p> <p>6 THE WITNESS: Do you want to take</p> <p>7 a lunch break and then we can come back after</p> <p>8 lunch?</p> <p>9 MR. FALVEY: Sure, 45 minutes.</p> <p>10 THE WITNESS: 45 minutes?</p> <p>11 MR. BURDEN: Yeah, 45 minutes is good.</p> <p>12 I will see you guys in 45 minutes. Off the</p> <p>13 record, please.</p> <p>14 (Whereupon a lunch recess was taken</p> <p>15 from 11:51 a.m., to 12:45 p.m., after</p> <p>16 which the following proceedings were</p> <p>17 had:)</p> <p>18 AFTERNOON SESSION</p> <p>19 JAMES A. DONELSON,</p> <p>20 called as a witness herein, having been previously</p> <p>21 sworn and examined, testified further as follows:</p> <p>22 DIRECT EXAMINATION (Cont'd.)</p> <p>23 BY MR. BURDEN:</p> <p>24 Q All right. Mr. Donelson, we were talking</p> | <p style="text-align: right;">Page 79</p> <p>1 BY MR. BURDEN:</p> <p>2 Q All right. So you knew in February</p> <p>3 of '18 that Mr. Gecas hadn't done any trading for</p> <p>4 six years?</p> <p>5 A He hadn't traded for a firm for six years,</p> <p>6 correct.</p> <p>7 Q Do you know if Mr. Gecas had traded for</p> <p>8 his own account?</p> <p>9 A Yes.</p> <p>10 Q All right. And when was that trading?</p> <p>11 A My understanding was he was trading an</p> <p>12 account.</p> <p>13 Q Whose account?</p> <p>14 A His own account.</p> <p>15 Q All right. And what did he tell you the</p> <p>16 results of that trading were?</p> <p>17 A I didn't ask him.</p> <p>18 Q Did he tell you?</p> <p>19 A No.</p> <p>20 Q All right. So let's get back to you.</p> <p>21 I'm still having a little trouble hearing you.</p> <p>22 A Okay.</p> <p>23 Q I don't know if we can do anything</p> <p>24 about it but if we could, that would be great.</p> |
| <p style="text-align: right;">Page 78</p> <p>1 about you, Mr. Gecas and your trade recommendations</p> <p>2 and I want to keep going with that for a little</p> <p>3 while, if we could, please. So when you started</p> <p>4 at Long Leaf Trading, Mr. Gecas was working as an</p> <p>5 AP. He was soliciting customers, correct?</p> <p>6 A Correct.</p> <p>7 Q Do you know how long Mr. Gecas had been</p> <p>8 working in that capacity?</p> <p>9 A I think five months, six months, something</p> <p>10 like that, based on his AP record.</p> <p>11 Q All right. And before that do you know</p> <p>12 what Mr. Gecas was doing?</p> <p>13 A He was working for -- I can't think</p> <p>14 of the name of the firm. They were an option</p> <p>15 education company.</p> <p>16 Q Do you know how long it had been since</p> <p>17 Mr. Gecas had done actual trading?</p> <p>18 A It was about six years.</p> <p>19 Q All right. And did you know that, you</p> <p>20 know, in February of 2018?</p> <p>21 MR. FALVEY: He asked if you knew that</p> <p>22 in February of 2018.</p> <p>23 A Oh, okay. I didn't hear the first</p> <p>24 part of it. All I heard was February '18. Yes.</p> | <p style="text-align: right;">Page 80</p> <p>1 All right. I apologize if I asked you this.</p> <p>2 Before you started at Long Leaf, had you ever</p> <p>3 traded options on futures?</p> <p>4 A Yes, with hedging.</p> <p>5 Q All right. And when was that?</p> <p>6 A 2016.</p> <p>7 Q And was this the episode where you did the</p> <p>8 hedge and you lost 30 grand on it?</p> <p>9 A Correct.</p> <p>10 Q Any other experience trading options on</p> <p>11 futures?</p> <p>12 A No.</p> <p>13 Q All right. So did you tell customers that</p> <p>14 you really didn't have any profitable experience</p> <p>15 trading options on futures?</p> <p>16 A No.</p> <p>17 Q And, in fact, you told customers that you</p> <p>18 had over 30 years of business experience, including</p> <p>19 10 years of financial and business development</p> <p>20 experience, in two of the largest proprietary</p> <p>21 trading companies. That's what you told customers,</p> <p>22 right?</p> <p>23 A Yes.</p> <p>24 Q Do you think that customers would</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 81</p> <p>1 have wanted you to make trade recommendations for</p> <p>2 them if they knew that you really didn't have any</p> <p>3 meaningful experience trading?</p> <p>4 MR. FALVEY: Objection to speculation,</p> <p>5 but go ahead.</p> <p>6 A Now I got confused. What's the question?</p> <p>7 BY MR. BURDEN:</p> <p>8 Q Do you think customers would have wanted</p> <p>9 to take Long Leaf's trading recommendations if they</p> <p>10 knew that you had substantially no profitable</p> <p>11 experience trading?</p> <p>12 A I don't understand the question.</p> <p>13 I'm sorry. Ashley, could you repeat it again?</p> <p>14 I'm just trying to figure out what the right answer</p> <p>15 is given the question you asked in terms of yes or</p> <p>16 no.</p> <p>17 Q It's one of those questions</p> <p>18 there's no right answer to, but let me ask it</p> <p>19 again. Mr. Donelson, do you think customers of</p> <p>20 Long Leaf would have wanted to take your trading</p> <p>21 recommendations if they knew that you had no</p> <p>22 profitable trading experience?</p> <p>23 A No.</p> <p>24 Q All right.</p> | <p style="text-align: right;">Page 83</p> <p>1 for a long time? How many months was it really</p> <p>2 profitable?</p> <p>3 A Four to five months.</p> <p>4 Q Yeah. And what happened after that?</p> <p>5 A All the volatility fell out of the market.</p> <p>6 Q What happened after that?</p> <p>7 MR. FALVEY: Asked and answered, but</p> <p>8 go ahead.</p> <p>9 A All the volatility fell out of the market</p> <p>10 and the trades lost.</p> <p>11 BY MR. BURDEN:</p> <p>12 Q Yeah. In fact, they lost so much,</p> <p>13 it wiped out all of your customers' gains, isn't</p> <p>14 that right?</p> <p>15 A Yes.</p> <p>16 Q And, in fact, substantially all</p> <p>17 of Long Leaf's customers while you were the CEO</p> <p>18 of the company lost in their accounts, correct?</p> <p>19 A Correct.</p> <p>20 Q All right. We're going to drill down</p> <p>21 on all of that stuff later, but I want to stay</p> <p>22 on your trade recommendations. So how did you come</p> <p>23 up with the trade recommendations that you provided</p> <p>24 to customers?</p> |
| <p style="text-align: right;">Page 82</p> <p>1 A No.</p> <p>2 Q Yeah, okay. That's the right answer.</p> <p>3 So why were you qualified to trade for people's</p> <p>4 retirement accounts? Why did you think this would</p> <p>5 be a good thing to do?</p> <p>6 A I have experience in these markets and</p> <p>7 understand how they work and how the competitors</p> <p>8 work in the markets. I know what trades won't work</p> <p>9 in a retail environment, having been around prop</p> <p>10 trading firms for almost ten years.</p> <p>11 Q But you didn't do any trading for those</p> <p>12 firms yourself, did you?</p> <p>13 A We weren't allowed to.</p> <p>14 Q And you didn't do any trading for</p> <p>15 customers or for anybody else's account, did you?</p> <p>16 A No.</p> <p>17 Q And you thought it would be a good idea</p> <p>18 to trade hundreds of customers' retirement accounts</p> <p>19 at Long Leaf Trading?</p> <p>20 A There was a specific trade that I felt</p> <p>21 that it would be profitable.</p> <p>22 Q Was it?</p> <p>23 A For a long time, yes.</p> <p>24 Q Are you sure it was profitable</p> | <p style="text-align: right;">Page 84</p> <p>1 A Can you assign a time period?</p> <p>2 Q You know what, you're right. I guess it</p> <p>3 probably did change over time and I don't want to</p> <p>4 waste too much time on that. Did Long Leaf Trading</p> <p>5 utilize any proprietary algorithms in their trading</p> <p>6 recommendations?</p> <p>7 A Can you define algorithm? I'm trying</p> <p>8 to be very clear.</p> <p>9 Q Yeah. Did Long Leaf Trading have any</p> <p>10 computer or software tools that it had developed</p> <p>11 inhouse, something proprietary to come up with these</p> <p>12 trade recommendations?</p> <p>13 A It did not have an inhouse system.</p> <p>14 Q All right. In fact, what you guys used</p> <p>15 was QuikStrike, right?</p> <p>16 A Correct.</p> <p>17 Q And QuikStrike is an off-the-shelf</p> <p>18 software program that builds options based on margin</p> <p>19 and volatility, is that fair to say?</p> <p>20 A It is an option tool. It doesn't</p> <p>21 build it based on margin or volatility. It --</p> <p>22 Q Okay.</p> <p>23 A It used strike price.</p> <p>24 Q All right. Well, let me ask it</p> |

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1 a different way. QuikStrike is an off-the-shelf
 2 software program, correct? Anybody can buy it?
 3 A Correct.
 4 Q Anybody can use it?
 5 A Correct.
 6 Q All right. And, in fact, it's available
 7 for free through the CME website, correct?
 8 A A version of it is, yes.
 9 Q Other than QuikStrike, were there
 10 any software programs that you used to come up
 11 with the trading recommendations that you provided
 12 to customers?
 13 A The other system we used was UpTick.
 14 Q Was UpTick another off-the-shelf software
 15 program?
 16 A Yeah.
 17 Q All right. And that's something that
 18 anybody could buy or use?
 19 A Theoretically, yes.
 20 Q Any other software programs that you
 21 used to come up with trading recommendations for
 22 Long Leaf?
 23 A Excel. But that was more just a
 24 recording mechanism, not a determination mechanism.

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1 Q Okay. Well, any other software
 2 products that you used to help come up with trading
 3 recommendations?
 4 A No. Let me correct that.
 5 Q Okay.
 6 A We did use the trading system to
 7 see the movements in the markets. In the case of
 8 Cunningham, it was their proprietary trading system.
 9 In the case of Gain, it was their proprietary
 10 trading system.
 11 Q Now, did you use those platforms
 12 to come up with the trading recommendations
 13 or just to sort of monitor where the market was?
 14 A They were -- if you're talking
 15 specifically about the trading systems, those
 16 were to look at the trends and also to monitor
 17 trades as they were -- after they were made.
 18 Q Got it. So you're using the tools
 19 that are available to any customers of Gain or
 20 Cunningham, correct?
 21 A I'm not sure about Cunningham. Gain, yes.
 22 Q All right. Why don't you take a
 23 look, if you could, please, at CFTC Exhibit 475.
 24 A Um-hmm.

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1 Q And let me know if you recognize this
 2 document and, if so, what you recognize it to be.
 3 A It is a trade recommendation.
 4 Q And it is a trade recommendation
 5 authored by you, correct?
 6 A I'm the one who put it together, yes.
 7 Q And you sent -- yeah. And you sent this
 8 to your APs to distribute to customers, correct?
 9 A Correct.
 10 Q All right. So I want to scroll
 11 down, if we could, please, to the second page of
 12 Exhibit 475. So did you put this together, this
 13 trading recommendation?
 14 A Yes, I put together the Excel to put
 15 this in place, yes.
 16 Q Got it, okay. So I just want to
 17 look at the first one here. It says Trading
 18 Recommendation: Oil Call Spread. Do you see that?
 19 A Yes.
 20 Q Do you see where it says buy?
 21 A Yes.
 22 Q That's the buy recommendation, correct?
 23 A Correct.
 24 Q Do you see sell? That's the sell

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1 recommendation, right?
 2 A Correct.
 3 Q So it says Max Gain and Loss. Do you
 4 see that?
 5 A Um-hmm. Yes, I do. I'm sorry.
 6 Q What does that indicate?
 7 A That would reflect what the maximum
 8 gain you could make on the trade and the maximum
 9 loss you could take on the trade.
 10 Q All right. So was this the format
 11 that the trading recommendations that you sent
 12 to customers followed? Did it have like this max
 13 gain/loss piece?
 14 A Yes.
 15 Q And how did you figure out what the max
 16 gain and loss were?
 17 A It is -- so the max loss on that
 18 trade would be equal to the amount you paid for
 19 to buy, less what you received as the sell, less
 20 commissions, less fees. In this case you can't
 21 lose -- it's a long position so you can't lose more
 22 than what you put in. And the other is basically
 23 if it hit the top of the -- of that spread, that's
 24 the maximum you could gain on that.

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1 Q Got it. So how frequently during
2 your tenure at Long Leaf did customers achieve the
3 max gain on a trade?

4 A I would say rarely.

5 Q Did you ever advise customers of that
6 fact or direct your APs to do so?

7 A Yes.

8 Q Where? Where can I find evidence of
9 that?

10 A The max gain or loss is a theoretical
11 construct. It's -- if everything -- you would have
12 to close out on the very last day at the very last
13 point to hit that number.

14 Q Yeah. But I want to know when you told
15 customers that and I want to know when you told
16 customers that the max gain was rarely achieved,
17 if ever.

18 A This is the format I inherited from
19 Tim Evans that had been reviewed by the NFA.

20 Q First of all, it is most certainly
21 not. Second of all, that is not responsive to
22 my question. What customer did you tell that the
23 max gain is rarely, if ever, achieved? Tell me the
24 name of the customer that you warned about that.

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1 A I don't know.

2 Q Did you ever tell any of the APs,
3 hey, make sure customers know that the max gain
4 is rarely, if ever, achieved? Did you ever say that
5 to the APs?

6 A They knew it and we talked about it, yes.

7 Q Yeah, but that's not what I'm asking
8 you. I'm asking you did you ever direct the APs
9 to tell customers that the max gain was almost never
10 achieved?

11 A The point was we focused on the target,
12 not the max.

13 Q Yeah, I don't care what the point
14 is and we're going to get to target in a minute.
15 What is the name of an AP that you told to make
16 sure that customers knew max gain was rarely, if
17 ever, achieved?

18 A Scott Gecas.

19 Q Oh, yeah? When did you tell Scott that
20 and what did you say?

21 A He understood what that number meant.

22 Q Yeah, I don't care if you think he
23 understood. I'm asking you what did you say to
24 Scott Gecas and when did you say it?

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1 A When we first put these out in
2 February that this is consistent with what we
3 were putting out before, that the max gain and loss
4 is prescribed that we need to tell people what it
5 is, but that's not what you're going to (inaudible).

6 Q So that's what you told Scott Gecas in
7 February of 2018?

8 A Yes.

9 Q Are there any emails about this?
10 Is there any other evidence other than your bare
11 say-so?

12 A No.

13 Q Yeah, I didn't think so. Are there
14 any other APs that you're going to try to tell me
15 you told to warn customers about max gain?

16 A No.

17 Q What did you do to make sure that
18 the APs were -- Scott Gecas or anybody else were
19 warning customers that the max gain was rarely ever
20 achieved?

21 A I'm sorry. Repeat the question.

22 Q Yeah. What did you do to make sure
23 that Scott Gecas was telling customers, hey, the
24 max gain is really never achieved?

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1 A I honestly don't remember.

2 Q You didn't do anything, did you?

3 A This had been a format that's been
4 explained to people before I got there and this
5 is what was approved by the NFA, saying we had to
6 put max gain or loss on trade recommendations.

7 Q Yeah, I want to push back on that. So
8 where can I find evidence the NFA approved this
9 format?

10 A We had a solicitation and trading
11 review started in August of 2017 and reviewed
12 this format.

13 Q All right. Did you get a letter from
14 the NFA approving or providing no comments on this
15 format?

16 A Yes, it's in their exit --

17 Q I lost that last bit.

18 A It's in their exit report.

19 Q Oh, okay. Where's their exit report?
20 What's the date of that?

21 A It's in February of 2018.

22 Q See, I don't believe you. So I want you
23 to tell me where exactly I can find this document
24 in the files that you produced.

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1 A It would be in the NFA review documents.
 2 Q What date did you produce that, please.
 3 A It would have been the first 5g --
 4 or 4g request, which would have been June of 2019.
 5 Q All right. And what did this exit
 6 report say about your trade recommendation format?
 7 A It had one comment on it that
 8 we needed to include the number of contracts.
 9 The previous version did not have the number of
 10 contracts on it. The other was -- it was related
 11 to not putting checks in the accounting system when
 12 they were issued.
 13 Q Did you advise the NFA that with respect
 14 to these trading recommendations, the max gain was
 15 never achieved or substantially never achieved?
 16 A During that review?
 17 Q Yeah.
 18 A I wasn't part of that review.
 19 Q You just saw the exit report?
 20 A I saw the exit report as -- yeah, I saw
 21 it --
 22 Q And when did you --
 23 A -- because it was an issue within the
 24 acquisition is that the NFA had -- was reviewing

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1 the terms.
 2 Q All right. With respect to this
 3 target gain, what is that supposed to indicate on
 4 Exhibit 475?
 5 A That is calculating a -- where we
 6 would want to take it off if it got to that point.
 7 Q How frequently during your tenure at
 8 Long Leaf Trading was the target gain achieved?
 9 A Maybe 20 percent, 30 percent of the time.
 10 Q And did you advise customers of that?
 11 A Yes.
 12 Q What customer did you tell this to?
 13 A Martin Pegelow, Mark Hartmann.
 14 Q So what did you say to Mr. Pegelow?
 15 A We were describing -- I was
 16 describing this as if there's a sharp movement
 17 in the underlying -- or in the underlying, that
 18 we'd take it off at this price, but any -- you know,
 19 we would also send out updated exit components to
 20 say we would exit at --
 21 Q Yeah. Mr. Donelson, you've got to
 22 answer these questions in a responsive way. My
 23 question to you is did you tell customers that the
 24 target gain was only achieved 20 to 30 percent

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1 of the time?
 2 A I told some of the customers, yes.
 3 Q Which ones?
 4 A Martin Pegelow, Mark Hartmann, Jerry
 5 Krantz. Those are the ones I distinctly remember.
 6 Q When did you tell Martin Pegelow
 7 that the target max loss was only -- or, sorry,
 8 the target gain was only achieved 20 to 30 percent
 9 of the time?
 10 A It would have been after June of 2018.
 11 Q I'm not asking you when it would have
 12 been. I'm asking you when it was.
 13 A July 2018.
 14 Q And how did he respond?
 15 A He understood what we were talking about.
 16 He said I under --
 17 Q All right. So Mark Hartmann, when did
 18 you tell him that the target gain is only achieved
 19 20 to 30 percent of the time?
 20 A July of 2018.
 21 Q Same for Mr. Krantz?
 22 A Yes.
 23 Q All right. And did you have these
 24 conversations with these three customers over

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1 the phone?
 2 A Yeah.
 3 Q And was that line recorded?
 4 A I don't believe so.
 5 Q Yeah, I didn't think so. But everybody
 6 else's line was recorded, wasn't it?
 7 A Yes --
 8 Q But not yours?
 9 A -- but only outgoing calls. Incoming
 10 calls would not be recorded.
 11 Q Yeah, I'm aware of that. All right.
 12 And with respect to this oil call spread trade,
 13 what was the ultimate result of this trade, if you
 14 can recall?
 15 A I don't remember. I would have to look
 16 it up.
 17 Q Well, I've got it. We'll look at
 18 it in a minute. So I want to push back on this
 19 representation of yours that you told some customers
 20 that the target gain was only achieved 20 to
 21 30 percent of the time. How did they react to that?
 22 A They understood that, as I explained
 23 what it was for, that that makes sense. It's meant
 24 to give us a point in the short run which should

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1 move very quickly that (inaudible).
 2 Q Did you explain to these customers
 3 that substantially all of Long Leaf's recommended
 4 trades resulted in losses for customers?
 5 A Are you talking about the long --
 6 the debit spread or are you talking about the
 7 credit spread?
 8 Q I'm talking about all of Long Leaf's
 9 trading recommendations during your tenure there.
 10 A I'm sorry. I forgot the question.
 11 MR. BURDEN: Ms. Maslowski, would you
 12 read back the question, please.
 13 (Whereupon the portion of the
 14 record was read as requested.)
 15 A Not all of our recommendations were
 16 losses.
 17 Q But substantially all of your customers
 18 lost most of their money, isn't that right?
 19 A Yes.
 20 Q Did you tell that to customers?
 21 A No.
 22 Q So when you're telling these customers
 23 by your account that the target gain is reached
 24 20 to 30 percent of the time, are you also telling

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1 them that most of the rest of the time we lose
 2 money and it wipes out those gains? Did you tell
 3 that to customers?
 4 A I disagree that most of the trades lost
 5 money.
 6 Q What was the average net return for
 7 Long Leaf Trading customers during your tenure at
 8 Long Leaf?
 9 A I don't know.
 10 Q All right. You know what, we're
 11 going to do this now. I'll tell you what. We
 12 won't do it now. We'll do it later. So staying on
 13 Exhibit 475, where it says max loss, how frequently
 14 was the max loss endured during your tenure at
 15 Long Leaf?
 16 A I don't know.
 17 Q Is it fair to say that it was --
 18 was it like half of the time? What do you think
 19 it was?
 20 A I would say on long positions it was
 21 10 percent of the time.
 22 Q I don't care about long or short.
 23 I want to know all your trade recommendations
 24 while you were at Long Leaf, how frequently was

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1 the max loss suffered by customers?
 2 A Ten percent would be an estimate.
 3 Q All right. So what about this target
 4 max loss, how frequently was something between the
 5 max and the target loss suffered by customers?
 6 A I'm sorry. Between the target --
 7 Q Yeah. How frequently did Long Leaf
 8 customers suffer the target max loss or worse?
 9 A I don't know the percentages off the top
 10 of my head.
 11 Q Do you think it's more than 50 percent,
 12 less than 50 percent?
 13 A I think it's less than 50 percent.
 14 Q Do you think it's more than 40 percent
 15 or less than 40 percent?
 16 A I would have to look at the actual trading
 17 to figure it out. I don't have that percentage in
 18 my head.
 19 Q What percentage of the time did Long
 20 Leaf -- did these recommendations to Long Leaf
 21 customers result in losses?
 22 A I know 2019. I don't know those numbers
 23 for 2018.
 24 Q So you know that 20 to 30 percent of the

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1 time Long Leaf recommendations achieved the target
 2 gain but you somehow don't know how frequently they
 3 lose money, is that right? Is that what you're
 4 telling me?
 5 A Well, if you're asking for a specific
 6 percentage, no, I don't have that number on my
 7 head.
 8 Q Yeah, give me a general percentage.
 9 I'll take whatever you've got.
 10 A In 2019?
 11 Q No, I don't want to know 2019. I want
 12 to know your entire tenure at Long Leaf.
 13 A I can answer with certainty on 2019.
 14 Q Yeah, I know you can but we're
 15 going to get to that. What I want to know
 16 is what percentage of customers' trades resulted
 17 in losses during the year that you were doing the
 18 trading. I guess it was more than a year. During
 19 your entire tenure at Long Leaf.
 20 A A rough estimate is 60 percent win,
 21 40 percent lose.
 22 Q Your testimony is that 60 percent of
 23 the trades won and 40 percent of the trades lost?
 24 A That is my estimate. I would have to

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1 check my actual data.
 2 Q Is that something you told customers?
 3 A We told them that we weren't going to
 4 win every trade. We made it clear.
 5 Q Yeah, I don't care. What I'm asking
 6 you is did you tell customers that Long Leaf
 7 Trading wins 60 percent and loses 40 percent?
 8 Is that what you told customers?
 9 A No, we never told customers that exact
 10 percentage.
 11 Q All right. I want to switch gears
 12 a little bit and go back to solicitation. So,
 13 Mr. Donelson, was there a time when you sought to
 14 review and revise the solicitation materials that
 15 APs had previously been using?
 16 A Yeah.
 17 Q When was that, please.
 18 A July of 2018 through October and
 19 then December of 2019 through March of 20 --
 20 December of 2018 to March of 2019 -- March of
 21 2019. I believe that's right. So July and October
 22 in 2018 and then from the end of 2018 December to
 23 March when we got approval by the CFTC -- or the
 24 NFA of our solicitation materials.

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1 Q All right. I want to drill down
 2 on that July 2018 revision. What prompted this
 3 revision of solicitation materials?
 4 A We had been looking at the demo
 5 and the custom as being not separate but one
 6 thing, and that's what we had been looking at
 7 for a while. Also, the demo had a lot of very
 8 long-winded, not pertinent things about books and
 9 training and things like that that we crunched down
 10 to one thing.
 11 Q All right. So it sounds like what you
 12 guys were -- so what you were doing in July of 2018
 13 was sort of collapsing these two presentations into
 14 just one presentation and removing some of the fat,
 15 is that fair to say?
 16 A Correct.
 17 Q All right. So I'll tell you what.
 18 You know, what I want to try to get to here are the
 19 solicitation materials that were, you know, drafted
 20 and/or revised and/or approved by you starting in
 21 July, you know, of 2018. So I'm going to show you
 22 some docs and we'll see if we can get to the bottom
 23 of this. Would you turn to CFTC Exhibit 397,
 24 please.

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1 A Okay. I'm here.
 2 Q All right. Thanks. So do you recognize
 3 this document?
 4 A Yes, it's the custom.
 5 Q Yeah. So what is this? It says New
 6 Custom, Revised Custom. It's from Andrew Nelson.
 7 You're copied on it. It's dated August 16th. What
 8 is this, please.
 9 A This would be a second presentation that
 10 the AP might provide to the prospective customer,
 11 but not necessarily.
 12 Q Got it. So this is something that --
 13 like who came up with this presentation?
 14 A It was a presentation that I had
 15 from Tim Evans. I don't know who under Tim Evans
 16 created it, whether it was Tim or somebody else.
 17 Q Well, is this the one -- I mean,
 18 is this the new one? Is this the one that APs
 19 are supposed to use from this point forward? It
 20 says, "Use this Power Point from now on."
 21 A Yes, it would be the revised version,
 22 but most did not use this at all. We were getting
 23 away from using the custom altogether.
 24 Q All right. So was this a presentation

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1 that was distributed to APs with your approval?
 2 A Yes.
 3 Q All right. And how long was it used for,
 4 if you know?
 5 A A month.
 6 Q What happened after that -- sorry?
 7 MR. FALVEY: That wasn't us.
 8 A It wasn't us.
 9 BY MR. BURDEN:
 10 Q All right. So what happened after that
 11 month?
 12 A We stopped using the custom. Only in rare
 13 cases would we use it.
 14 Q And that's because the custom,
 15 you know, that was like the second presentation,
 16 right?
 17 A Right.
 18 Q And you wanted it to sort of just be one
 19 presentation, right?
 20 A One presentation, yeah.
 21 Q All right. Was this replaced by
 22 a different Power Point presentation in September
 23 of 2018?
 24 A No.

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| <p style="text-align: right;">Page 105</p> <p>1 Q Sorry. What was that again, please.</p> <p>2 A No.</p> <p>3 Q Did you instruct the APs to stop showing</p> <p>4 this presentation to customers in September of '18?</p> <p>5 A Yes, I did.</p> <p>6 Q And -- you did? You said yes?</p> <p>7 A Yeah.</p> <p>8 Q All right. And how did you relate that</p> <p>9 to the APs? Did you write? Was it in a meeting?</p> <p>10 A It was a meeting, you know, on the floor.</p> <p>11 Not a formal one.</p> <p>12 Q And in that meeting you told the APs</p> <p>13 not to use this presentation anymore, correct?</p> <p>14 A Correct.</p> <p>15 Q All right. So let's stay on 397,</p> <p>16 and I want you to go down to page 11 where it</p> <p>17 says Portfolio Management.</p> <p>18 A Um-hmm.</p> <p>19 Q All right. So were there any customers</p> <p>20 at Long Leaf Trading who enjoyed an annual return</p> <p>21 of 12 percent?</p> <p>22 A No.</p> <p>23 Q Were there any customers at Long Leaf</p> <p>24 that enjoyed a positive annual return during your</p> | <p style="text-align: right;">Page 107</p> <p>1 return on three months, huh?</p> <p>2 A Correct.</p> <p>3 Q What about Gaylord, how long did he take</p> <p>4 Long Leaf's recommendations for?</p> <p>5 A I don't know the exact length of time.</p> <p>6 It was a half a year I think.</p> <p>7 Q Okay. Any other customers during</p> <p>8 your tenure at Long Leaf that enjoyed a positive</p> <p>9 annual return?</p> <p>10 A I don't remember any other names, no.</p> <p>11 Q In fact, all of your other customers</p> <p>12 during your time at Long Leaf had negative annua</p> <p>13 returns, isn't that true?</p> <p>14 A True.</p> <p>15 Q All right. Let's take a look here,</p> <p>16 if we could, please, at CFTC Exhibit 4. What is</p> <p>17 this document, please.</p> <p>18 A It's a demo training script.</p> <p>19 Q All right. So this looks new to me.</p> <p>20 This has got new colors. What's it say? It says</p> <p>21 revised July 17, 2018. So this is a script that you</p> <p>22 revised, correct?</p> <p>23 A That Andrew and I were sending back and</p> <p>24 forth with revisions, yes.</p> |
| <p style="text-align: right;">Page 106</p> <p>1 tenure?</p> <p>2 A Yes.</p> <p>3 Q Who was that?</p> <p>4 A Michael Hervey and --</p> <p>5 Q How do you spell that, please.</p> <p>6 A H-e-r-v-e-y.</p> <p>7 Q Any other customers?</p> <p>8 A There -- I may be confusing first</p> <p>9 name and last name, but I think Gaylord Hughes.</p> <p>10 Q All right. And were those customers</p> <p>11 trading pursuant to Long Leaf's recommendations?</p> <p>12 A Yes.</p> <p>13 Q How long did Mr. Hervey trade for?</p> <p>14 A Mr. Who? I'm sorry.</p> <p>15 Q Who was the first guy?</p> <p>16 A Hervey.</p> <p>17 MR. FALVEY: Hervey.</p> <p>18 A About three months.</p> <p>19 BY MR. BURDEN:</p> <p>20 Q Okay. So he traded for three months and</p> <p>21 he got in and he got out?</p> <p>22 A He lost his job and had to pull the money</p> <p>23 out.</p> <p>24 Q All right. And he achieved a positive</p> | <p style="text-align: right;">Page 108</p> <p>1 Q All right. So was this a script that was</p> <p>2 provided to the APs to use?</p> <p>3 A It was a training script.</p> <p>4 Q Was this a script that was provided to</p> <p>5 the APs?</p> <p>6 A No. It's a work product --</p> <p>7 Q So what happens -- sorry?</p> <p>8 A It's a work product between Andrew and</p> <p>9 myself.</p> <p>10 Q All right. Was some version of this</p> <p>11 script provided to the APs?</p> <p>12 A No, because that presentation was never</p> <p>13 sent to get no comment from the NFA --</p> <p>14 Q Okay. I don't care why. I don't</p> <p>15 want to hear that. What I'm trying to figure out</p> <p>16 is if you're passing this back and forth with Andrew</p> <p>17 Nelson, is there a version of this that was sent to</p> <p>18 the APs?</p> <p>19 A No.</p> <p>20 Q All right. So this demo script</p> <p>21 was exchanged between you and Mr. Nelson and no</p> <p>22 version of it was ever provided to the APs during</p> <p>23 your tenure?</p> <p>24 A Correct.</p> |

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| <p style="text-align: right;">Page 109</p> <p>1 Q All right. I want to show you what 2 I have marked as CFTC Exhibit 396. So take a look 3 at this one and tell me what it is, please. 4 A These are the talking points to the 5 presentation we are altering. 6 Q Okay. So the Power Point presentation 7 that we saw in CFTC Exhibit 397, you're saying that 8 Exhibit 396 is like the talking points that go along 9 with that presentation? 10 A No. This is for the demo outline, not 11 for the custom outline. 12 Q All right. Was this document we're 13 looking at, Exhibit 396, was this provided to Long 14 Leaf Trading APs? 15 A No, because the presentation was never 16 approved or went to the NFA. 17 Q All right. And you keep talking 18 about this presentation that was approved by the 19 NFA. When did you have a presentation approved 20 by the NFA? Like when did this happen? 21 A I misspeak. It's not approved. There's 22 a no comments letter on it. 23 Q Okay. All right. 24 A There was one in --</p> | <p style="text-align: right;">Page 111</p> <p>1 So let me do this again cleanly now that we're 2 on the same page and you've got 485 in front of 3 you. So your version of things, your story is that 4 between December of 2017 and March of 2019, you 5 know, your understanding is that Long Leaf Trading 6 APs were presenting to customers and prospective 7 customers and what they were presenting were just 8 the talking points in Exhibit 485, is that correct? 9 A One thing that I think there was 10 another presentation between December and -- I'd 11 have to check, but another one was sent to the NFA 12 and there was a no comment letter on it. I think 13 I remember that. I'm not sure on that. 14 Q What was the date of that no comment 15 letter? 16 A The last one I have is 2017, 12 -- 17 December 6. That's the last no comment letter I 18 have on the registration -- or on the solicitation. 19 Q All right. I'm going to do all 20 of this again. And, incidentally, I've noticed 21 how long you're taking to answer questions. That 22 is your prerogative. You should take the time you 23 feel that you need. But you should know that if 24 you think you're going to run down the clock,</p> |
| <p style="text-align: right;">Page 110</p> <p>1 Q So when did you get the no comment 2 letter on the presentation that you, you know, 3 wanted the APs to do? 4 A That was in March of 2019 and it's 5 a completely different one than this. We were 6 trying to get that approved. 7 Q Yeah. So -- 8 A The one that had already been approved, 9 the new one. 10 Q All right. So I just want to make 11 sure I've got your story straight here. So your 12 testimony is that you, you know, you believe that 13 between December of 2017 through March of 2019 the 14 Long Leaf Trading APs were presenting to customers 15 according to the talking points that we saw in 16 Exhibit 485, which is -- well, I can let you look 17 at it. So that's your story? 18 A 485. 19 Q It's the one I emailed you guys. 20 MR. FALVEY: Oh, right. 21 A Yes. 22 BY MR. BURDEN: 23 Q Okay, good. So we're getting somewhere, 24 not somewhere that's good for you, but somewhere.</p> | <p style="text-align: right;">Page 112</p> <p>1 we're going to demand more time and if we don't 2 get it, we're going to move for more time and we're 3 going to play this video for the judge with you 4 staring into space and going back and forth. So 5 you can confer with your counsel about that in a 6 break, should you need to, because we are not where 7 we should be with this. 8 All right. This December 6, 2017 9 no comment letter from the NFA, the presentation 10 that was submitted that they are not commenting on, 11 that is the presentation in Exhibit 485, is that 12 correct? 13 A Yeah. 14 Q All right. So as far as you know, 15 between December of 2017 when you start and March 16 of 2019 when you get a new no comment letter, this 17 Exhibit 485 is the only -- the only sort of script 18 or set of talking points that APs are using? 19 A Correct. 20 Q So there's no other presentations 21 or talking points that you -- 22 A The custom -- 23 Q -- that you -- 24 A The custom was not submitted to the NFA.</p> |

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1 Q Got it, okay. We're getting
2 somewhere. So Exhibit 397, the revised custom
3 Power Point, that's something that you distributed
4 or had distributed to the APs, correct?
5 A Yes.
6 Q All right. During the period
7 December 2017 through March of 2019, any other
8 Power Point presentations that were distributed
9 to the APs either by you or by somebody else that
10 you were aware of?
11 A The only one I know of is the one
12 that was approved in December of 2017 removing Tim
13 Evans from the presentation, and we did not resubmit
14 that for no comment letter or review.
15 Q Okay. Other than that, any other
16 Power Point presentations that were distributed
17 to Long Leaf Trading APs between December of 2017
18 and March of 2019?
19 A There were presentations in early
20 2019 as we were all working on, that they were
21 work product. They weren't solicitation products.
22 Q Were they given to the APs?
23 A We were all working on the presentation
24 at the same time, so they were all being --

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1 Q Once again --
2 A They were given to the APs but they were
3 not used.
4 Q Got it, okay. So we'll get to
5 those in a minute. So between December of 2017
6 and March of 2019 were there any scripts or talking
7 points that were distributed to the APs, to your
8 knowledge, other than Exhibit 485?
9 A I found out about the script, and I don't
10 know the one that you pointed to, in April of 2018
11 that there was this script. It was not provided to
12 me at the time of acquisition.
13 Q Yeah, got it. So we talked about
14 this. What I'm trying to get at, Mr. Donelson,
15 is were there any other scripts or talking points or
16 outlines that were sort of new during your tenure?
17 I want to make sure I get everything, and I usually
18 do, but I'm going to check with you.
19 A I don't know of any other one.
20 Q Got it.
21 A I don't remember any others.
22 I think that would be safe to say. Mr. Burden,
23 the email that you sent us is exhibit what number,
24 to be confirmed? I want to confirm the number.

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1 Q Yeah, so it's 485 and I included
2 it in the subject line. All right. Would you
3 turn for me, please, to CFTC Exhibit 395.
4 A Okay.
5 Q All right. So this is an email from
6 you to Andrew Nelson on July 25, 2018. So, you
7 know, what's going on here?
8 A This was a hardcopy that he gave me
9 that I scanned and sent back to him as a document.
10 Q All right. So why were you guys sending
11 this back and forth?
12 A We didn't have this in any document format,
13 only hardcopy.
14 Q Well, why did you want it in a document
15 format?
16 A With the possibility of editing it,
17 changing it, making it more standard.
18 Q Did you ever edit it or change it or make
19 it more standard?
20 A We started on that path. However, I don't
21 think we finished.
22 Q Was a version of these rebuttals
23 ever distributed during your tenure to APs at
24 Long Leaf?

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1 A I don't remember. This document
2 wasn't provided at acquisition, but it seemed like
3 it had been there a long time.
4 Q All right. So did you make any changes
5 to it and then, you know, have it distributed to the
6 APs again?
7 A We made some changes, but I don't know
8 if we ever -- I don't remember if we ever sent it
9 out again.
10 Q All right. Did you ever tell the
11 APs, hey, don't use these rebuttals? Let me
12 rephrase that. Did you ever tell the APs not to
13 use the rebuttals in Exhibit 395?
14 A I don't remember.
15 Q Did you ever encourage the APs to continue
16 to use the rebuttals that we see memorialized in
17 Exhibit 395?
18 A No.
19 Q Did you ever discourage the APs from using
20 the rebuttals in Exhibit 395?
21 A Specific ones, yes, but not as a global
22 statement.
23 Q Which ones?
24 A As I answered before, one related

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1 to a month. Any ones that talk about Tim Evans
 2 obviously we took out, we told them not to use.
 3 Q What do you mean the one related to
 4 a month?
 5 A It was the one, two, three, fourth,
 6 fifth on page -- I have to count the page. It's
 7 under the header Closing Off the Accountability/
 8 Trustworthiness/Ideas. It's the fifth one down.
 9 Q Oh, so the one with the misrepresentations.
 10 So you told the APs not to say this. You told them
 11 not to say we are very confident because we are good
 12 at what we do. We are so confident in what we do we
 13 can make those your results. That's the part you
 14 told APs not to say?
 15 A I told them not to use that rebuttal.
 16 Q Okay. When did you tell them this?
 17 A July 2018.
 18 Q All right. And who was there for that?
 19 A The staff at that time. That would
 20 have been -- I'm trying to remember who was there --
 21 Scott, Brian, James, Alex. I think those are the
 22 only four APs that we had at the time. There was
 23 also one rebuttal talking about -- and I don't see
 24 it -- about the CME study and the 76-1/2 percent

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1 that just wasn't pertinent anymore.
 2 Q And you told them at this July 2018
 3 meeting not to use that one?
 4 A Yeah.
 5 Q All right. Is there any written evidence
 6 of that? Did you send out any instructions?
 7 A No.
 8 Q What did you do to make sure that they
 9 didn't just continue to say this?
 10 A I had Scott reviewing the presentation.
 11 Q What else did you do?
 12 A Nothing more on my part.
 13 Q All right. So what was -- I see
 14 with the last few exhibits we've looked at here,
 15 you know, Andrew Nelson is sort of going back and
 16 forth on you with drafts. What was Mr. Nelson's
 17 role in this exchange of drafts?
 18 A He was updating some of our marketing
 19 materials. He was also learning the trade desk.
 20 He was doing non-AP activity. He was not contacting
 21 customers.
 22 Q Got it. Now, you had him doing this, but
 23 you knew that he had been charged with two separate
 24 incidents of theft and pled guilty to one of them.

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1 You knew that, right?
 2 A Correct.
 3 Q And you knew that before you tasked him
 4 with working on those solicitations and learning the
 5 trade desk, right?
 6 A Correct.
 7 Q And you knew also that he had no fewer
 8 than two DULs to his name, right?
 9 A Correct.
 10 Q So why did you have this guy doing this
 11 stuff?
 12 A He was under my supervision.
 13 Q Well, we've covered your supervision.
 14 We won't do it again.
 15 MR. BURDEN: All right. Sorry, could
 16 we take a five-minute break? Off the record,
 17 please.
 18 (Whereupon a recess was taken from
 19 2:10 p.m., to 2:20 p.m., after which
 20 the following proceedings were had:)
 21 Q All right. Mr. Donelson, I want
 22 you to take a look at the exhibit that I have
 23 marked as CFTC Exhibit 487, and it's a Power Point
 24 presentation. So could you take a moment and look

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1 at it for me, please.
 2 A Um-hmm, yes. I'm sorry.
 3 Q All right. So do you understand this
 4 Power Point presentation to be the presentation
 5 that the NFA issued a no comment letter with respect
 6 to?
 7 A Yes.
 8 Q All right. Now, Exhibit 485,
 9 do you understand that to be the talking points
 10 or presentation that the NFA issued a no comment
 11 letter on?
 12 A 485?
 13 Q Yep. It's the first one I emailed you.
 14 A Oh, it's the first one. Yes.
 15 Q All right. I want you to open up
 16 Exhibit 486, which I emailed you. Can you take
 17 a look at that one, please.
 18 A Yes, I've got it.
 19 Q All right. And this document is a letter
 20 from NFA to Mr. Evans dated December 12, 2017. Is
 21 this the no comment letter that you believe provides
 22 no comment on Exhibits 485 and 487?
 23 A Yes.
 24 Q All right. So if you look at the

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| <p style="text-align: right;">Page 121</p> <p>1 bottom, it says here NFA has no comments. It 2 may be used to solicit clients. However, NFA did 3 not verify any of the statements contained within 4 the material. This notice does not preclude NFA 5 or the CFTC from raising compliance issues with 6 the content of this material at some future time. 7 Do you see that statement? 8 A Yes. 9 Q All right. Do you know if Mr. Evans had 10 advised the NFA that substantially all customers 11 lost money participating in the Time Means Money 12 program? 13 A No. They -- 14 Q Go ahead. 15 A Can you read back the question? 16 Q Yeah. So what I want to get at here 17 is did the NFA know -- 18 A I don't believe he told the NFA, no. 19 Q What didn't he tell the NFA? 20 A That the customers had lost money. 21 Q All right. Did you tell the NFA 22 that substantially all customers participating 23 in the Time Means Money program had lost money? 24 A No.</p> | <p style="text-align: right;">Page 123</p> <p>1 Exhibit 48, and this is just in the portfolio. 2 There's no email for this. Do you recognize -- 3 A I'm there. 4 Q Do you recognize this document? 5 A Yes. 6 Q All right. What is it, please. 7 A It is a letter from the NFA to 8 Long Leaf Trading ticking off a review I guess 9 for what -- there's a technical term for it but -- 10 Q Yeah, I didn't get any of that. 11 MR. BURDEN: Mary, did you get that? 12 THE REPORTER: Half of it. 13 BY MR. BURDEN: 14 Q All right. You've got to -- 15 A It is a document -- it is a document 16 from the NFA starting a review based on findings. 17 Q Yeah, you could say that. So 18 Exhibit 48 is a letter from NFA to you dated 19 May 17, 2018. And without reading the whole 20 thing aloud, it accuses Nick Gunther and Scott 21 Gecas of making misrepresentations to undercover 22 NFA investigators. Is that a fair summary of what 23 this letter is saying? 24 A Yes.</p> |
| <p style="text-align: right;">Page 122</p> <p>1 Q All right. And so after you got to 2 Long Leaf Trading you learned of a script, and 3 that's Exhibit 380, that had been used or was being 4 used to train APs, right? 5 A Correct. 6 Q Had that script been approved by the 7 NFA? 8 A No. 9 Q And you learned as well of this 10 like rebuttal document we see in Exhibit 381 at 11 some point after you started at Long Leaf, correct? 12 A Correct. 13 Q Had that document been approved by the 14 NFA? 15 A No. 16 Q All right. So you didn't go back 17 to the NFA at any point and say, hey, listen, 18 it turns out that all of these customers have 19 lost money. Are these solicitation materials in 20 Exhibits 487 and 485, are they still okay to use? 21 Did you ever do that? 22 A No. 23 Q All right. I want to switch gears 24 a little bit, if I could, and let's go to CFTC</p> | <p style="text-align: right;">Page 124</p> <p>1 Q All right. And what the letter says 2 is that, you know, these two APs told customers -- 3 or, well, they told the undercover NFA guys that 4 customers get 7 to 10 percent returns a year and 5 some get more than 20 percent. The letter says 6 that, right? 7 A Yes, it does. 8 Q And the letter also accuses Mr. Gecas and 9 Mr. Gunther of telling customers that 25 percent is 10 a realistic return for the recommendations that Long 11 Leaf provides, is that right? 12 A The letter says that. 13 Q All right. And the letter also says 14 that they told customers that in March of 2018 15 some customer made between 25 and 50 percent profit. 16 The letter says that too, right? 17 A The letter says that. 18 Q All right. So did you go back 19 and listen to these calls that are cited by this 20 letter? They give you the dates. 21 A I did. 22 Q All right. And, in fact, did Mr. Gunther 23 and Mr. Gecas say the things in this letter? 24 A Some of them, yes. Some of them, no.</p> |

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| <p style="text-align: right;">Page 125</p> <p>1 Q Which ones did he say? Which ones did 2 Mr. Gecas say? 3 A Let me correct that. There was one 4 that he did not say related to monthly target 5 return. 6 Q Let's break this down. Let's break 7 this down. I've made this harder than it has 8 to be. So the letter in CFTC Exhibit 48 has a bunch 9 of misrepresentations that, you know, the NFA say 10 Gunther made to their investigators. Your testimony 11 is you went back and listened to these calls, right? 12 A Correct. 13 Q All right. Did Mr. Gunther say these 14 things? 15 A Yes. 16 Q All right. Did you fire Mr. Gunther? 17 A We kept him on to help with trading -- 18 with helping Mr. Gecas prepare for his radio spot 19 doing trading and market analysis. 20 Q So it's your testimony that Mr. Gunther 21 stopped soliciting clients after this letter? 22 A He did not stop soliciting clients, but 23 Mr. Gecas managed him closer. 24 Q Yeah, that sounds great, except Mr. Gecas</p> | <p style="text-align: right;">Page 127</p> <p>1 A He would get nervous, embellish, and 2 we tried to work on that but it did not work. He 3 just could not kind of stay within what he needed 4 to say. He was a good kid. Just not the right job 5 for him. 6 Q All right. I would follow up on that, 7 but there's more stuff to do here. So I want to 8 stay on Exhibit 48. "Scott Gecas represented the 9 following," and it lists a bunch of false claims 10 that NFA says Gecas made to their investigator. 11 You listened to the calls, right? 12 A Yeah. 13 Q Did Mr. Gecas say this stuff? 14 A Not the point on 8 to 12 monthly 15 target return, nor did he say the doubt about 8 to 16 10 percent, if not monthly, then annually. 17 Q All right. So you didn't hear him say 18 those two points? 19 A Correct. 20 Q Did you hear Mr. Gecas say the rest 21 of these points? 22 A Yes. 23 Q All right. So did you fire Mr. Gecas 24 for this?</p> |
| <p style="text-align: right;">Page 126</p> <p>1 is also accused of making misrepresentations here. 2 So I'm just going to ask my question again in a 3 different way. How long did Mr. Gunther continue 4 to solicit clients after you received this letter? 5 A June 2018. 6 Q Early June, mid June, late June? 7 A I think late June. 8 Q All right. Did you fire Mr. Gunther? 9 Did he quit? 10 A I fired him. 11 Q And when did you fire him? 12 A August 2018. 13 Q Are you sure? Are you sure it wasn't 14 October? 15 A I honestly don't remember the exact date. 16 Q All right. I'm pretty sure it was 17 October. NFA records indicate that he was an 18 AP of Long Leaf's until October 16th of 2018. Do 19 you have any reason to believe that that's wrong? 20 A No. 21 Q All right. So let's stay on Exhibit 48. 22 I should ask. So why did you fire Mr. Gunther? 23 A This was not the job for him. 24 Q Why do you say that?</p> | <p style="text-align: right;">Page 128</p> <p>1 A Those statements are true. He did 2 trade a volatility swap in bonds. He did -- we do 3 trade short options with defined risk. 4 Q Well, this last point -- sorry, I may 5 have missed it. Did he -- did you hear Mr. Gecas 6 say he had no doubt he could hit 8 to 10 percent 7 returns, if not monthly, then annually? 8 A No, I did not hear him say that. 9 Q Okay. That's the one you didn't hear. 10 And did you -- and you didn't hear him say the 8 11 to 12 percent monthly target return is obtainable? 12 A I did not hear him say that. 13 Q And did you listen to all of the calls 14 cited by the NFA? Were you able to find them in 15 the system? 16 A Yes. 17 Q All right. And Mr. Gecas stayed at Long 18 Leaf until December, correct? 19 A Correct. 20 Q Yeah. So when Mr. Gecas said in 21 those calls that in March of 2018 most Long Leaf 22 customers made about 25 percent profit and the top 23 end made 50 percent, you heard him say that? 24 A Yes.</p> |

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| <p style="text-align: right;">Page 129</p> <p>1 Q Did Mr. Gecas in your listen to</p> <p>2 his calls explain that March was one of the only</p> <p>3 profitable months that year and, in fact, that any</p> <p>4 gains made in March were almost immediately wiped</p> <p>5 out? Did you hear him say that to customers?</p> <p>6 A No.</p> <p>7 Q So Mr. Gecas just left this 25 to</p> <p>8 50 percent stats and didn't provide any context</p> <p>9 for it, is that correct?</p> <p>10 A Correct.</p> <p>11 Q All right. And Mr. Gecas stayed at</p> <p>12 Long Leaf until December of 2018, is that correct?</p> <p>13 A Correct.</p> <p>14 Q Was he fired or did he quit?</p> <p>15 A He was fired.</p> <p>16 Q For what?</p> <p>17 A Performance.</p> <p>18 Q Well, when you say performance, what</p> <p>19 are you referring to?</p> <p>20 A His trading performance, his training</p> <p>21 of the sales force.</p> <p>22 Q What about his training of the sales</p> <p>23 force was unsatisfactory?</p> <p>24 A They were not getting up to speed as</p> | <p style="text-align: right;">Page 131</p> <p>1 traded or anything, so I really didn't know what</p> <p>2 they were. But these are the ones that had actively</p> <p>3 traded on their own.</p> <p>4 Q Okay. So when you say had actively</p> <p>5 traded on their own, during what period of time,</p> <p>6 please.</p> <p>7 A Back to 2015 where I could determine from</p> <p>8 the trade records that they were trading something</p> <p>9 different than what was in the TMM program.</p> <p>10 Q Got it, okay. So in order to come</p> <p>11 up with this list of self-traders, you went back</p> <p>12 to Long Leaf's trading records and looked to see who</p> <p>13 was, you know, had their accounts traded according</p> <p>14 to the recommendations, is that correct?</p> <p>15 A Correct.</p> <p>16 Q And these are the customers who didn't</p> <p>17 during that 2015 through July 2018 time period?</p> <p>18 A Correct.</p> <p>19 Q So after July 26, 2018 is it fair</p> <p>20 to say that all new customers were participants</p> <p>21 in the Time Means Money program or, you know, the</p> <p>22 recommendations that Long Leaf Trading was</p> <p>23 provided -- providing after that?</p> <p>24 A Correct.</p> |
| <p style="text-align: right;">Page 130</p> <p>1 fast as I wanted them to be.</p> <p>2 Q Was it because they were consistently</p> <p>3 making misrepresentations or misleading statements</p> <p>4 to customers?</p> <p>5 A No.</p> <p>6 Q All right. So I -- all right. We're</p> <p>7 going to switch gears a little. I want you to go</p> <p>8 to CFTC Exhibit 451 in the portfolio, please.</p> <p>9 A Okay, I'm there.</p> <p>10 Q All right. Do you recognize this document?</p> <p>11 A This is the list of self-traders.</p> <p>12 Q All right. And this is a document</p> <p>13 that you provided to the NFA, is that correct?</p> <p>14 A Correct.</p> <p>15 Q In connection with their audit of you</p> <p>16 or of Long Leaf in 2018, correct?</p> <p>17 A Correct.</p> <p>18 Q And is this a true, accurate and</p> <p>19 complete list of the self-traders as of 7/26/2018?</p> <p>20 A Yes.</p> <p>21 Q Were there any self-traders as of that</p> <p>22 date who were not on this list?</p> <p>23 A It is possible that some of the</p> <p>24 customers had been there for years and never</p> | <p style="text-align: right;">Page 132</p> <p>1 Q All right. So I sent you guys</p> <p>2 a couple of spreadsheets, and I was -- and one's</p> <p>3 marked 450, one's marked 452.</p> <p>4 A Yes.</p> <p>5 Q Could we take a look at those now,</p> <p>6 please. Can we start with --</p> <p>7 A I have 4 (inaudible). Which one do you</p> <p>8 want to --</p> <p>9 Q You know what, give me one second.</p> <p>10 Sorry. All right. Could we start with 52, please,</p> <p>11 with 452.</p> <p>12 A Let me get it first.</p> <p>13 Q All right. Thanks.</p> <p>14 A I've got it open.</p> <p>15 Q All right. Do you recognize this document?</p> <p>16 A It's a list of all Long Leaf Trading's</p> <p>17 customers back to the start of when they cleared</p> <p>18 with Gain.</p> <p>19 Q Oh, okay. So that's -- like what's the</p> <p>20 start date there, like 2012?</p> <p>21 A That's when the funding took place,</p> <p>22 yes. So it would have been any account open as</p> <p>23 of 11/2012, not even that. It's pretty much a</p> <p>24 complete list of every customer that Long Leaf had.</p> |

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| <p style="text-align: right;">Page 133</p> <p>1 Q Got it, got it, got it.</p> <p>2 A And you'll see places where there is no</p> <p>3 account type because I couldn't really determine</p> <p>4 what they were doing.</p> <p>5 Q Got it. All right. Let's turn next,</p> <p>6 if we could, please, to CFTC Exhibit 450.</p> <p>7 A Okay.</p> <p>8 Q Hey, sorry, so one more about 452. So</p> <p>9 Exhibit 452, on top of going back all the way to</p> <p>10 like 2012, it's also just Gain customers, right?</p> <p>11 A No, it has Gain customers and Cunningham</p> <p>12 customers.</p> <p>13 Q Got it. Okay, thanks. All right.</p> <p>14 So CFTC Exhibit 450, what is this document, please.</p> <p>15 A It's a list of all the Long Leaf Trading</p> <p>16 customers.</p> <p>17 Q Yeah. So how did you -- this 450, how</p> <p>18 did you put this one together, please.</p> <p>19 A In -- by pulling down all the trade</p> <p>20 data, I could put this together and then -- and</p> <p>21 Gain provided me a file with emails and all those</p> <p>22 type of things.</p> <p>23 Q So is 450 -- sorry, go ahead.</p> <p>24 A And who the opening broker was.</p> | <p style="text-align: right;">Page 135</p> <p>1 calling it anything. You know, what I'm trying</p> <p>2 to get at with Exhibit 450 is, you know, does this,</p> <p>3 these TMM customers, does this mean all of the</p> <p>4 broker-assisted customers or just the ones that</p> <p>5 participated in the Time Means Money program,</p> <p>6 as you understood it, which I think is -- and these</p> <p>7 are horrible questions, but I'm hoping it will open</p> <p>8 a dialogue so you can see where I'm going with it</p> <p>9 and be helpful.</p> <p>10 A Yeah, it's the tab --</p> <p>11 Q Is this supposed to be just the</p> <p>12 guys that participated in like, you know, what</p> <p>13 you thought TMM was, like just the credit spreads,</p> <p>14 or is this like everybody who did broker-assisted</p> <p>15 stuff?</p> <p>16 A This is everybody that did broker-assisted</p> <p>17 brokerage.</p> <p>18 Q All right, yeah. So, you know,</p> <p>19 one of the things that -- well, okay. So let</p> <p>20 me ask you this. With respect to Gain, the Gain</p> <p>21 commissions were paid monthly to Long Leaf Trading,</p> <p>22 is that correct?</p> <p>23 A Correct.</p> <p>24 Q And they kind of come in like a lump</p> |
| <p style="text-align: right;">Page 134</p> <p>1 Q Got it. So is 450 just Gain?</p> <p>2 A No, 450 is all the customers -- 452</p> <p>3 was the response to the 4g request back in June.</p> <p>4 This is the additional to bring it up to date with</p> <p>5 the request for production on the one, and it brings</p> <p>6 it only to the time period where these people were</p> <p>7 customers given the time period of the complaint.</p> <p>8 Q Okay. So this tab -- we've got three</p> <p>9 tabs. Well, there's four tabs. There's Full List,</p> <p>10 Sheet 1, TMM Customers and Opened After Ownership.</p> <p>11 So the TMM customers, how did you -- what does this</p> <p>12 represent?</p> <p>13 A These were all the customers that</p> <p>14 traded within the broker-assisted program based</p> <p>15 on the trade data that I could ascertain for people</p> <p>16 I didn't know. Customers before I got there, I used</p> <p>17 the actual trade data from their accounts.</p> <p>18 Q Got it. So one of the things that</p> <p>19 we talked about in, you know, in your investigative</p> <p>20 testimony is, you know, I was referring generally to</p> <p>21 Long Leaf Trading's trading program as being Time</p> <p>22 Means Money and, you know, you had sort of testified</p> <p>23 that you stopped using that name at some point or</p> <p>24 you were calling it something else or you weren't</p> | <p style="text-align: right;">Page 136</p> <p>1 at the end of the month, right?</p> <p>2 A Correct.</p> <p>3 Q So, you know, when you started, you</p> <p>4 know, what percentage of those monthly commissions</p> <p>5 are attributable to broker-assisted trades to the</p> <p>6 recommendations?</p> <p>7 A From the Gain commissions or the total</p> <p>8 on the income statement?</p> <p>9 Q Just the Gain commissions. I'm just asking</p> <p>10 about the commissions.</p> <p>11 A 90 percent.</p> <p>12 Q And how can you tell that? Like how do</p> <p>13 you know that that's the breakdown?</p> <p>14 A The -- you have commission by account</p> <p>15 and the account has a broker code, and Tim Evans was</p> <p>16 the one who was in charge of all the non-broker --</p> <p>17 or the non broker-assisted programs. And it would</p> <p>18 vary depending on what those people decided to do</p> <p>19 on a daily basis.</p> <p>20 Q Got it. So that's helpful. I want to</p> <p>21 sort of keep going with this, but I want to talk</p> <p>22 about the Gain commissions from when you started</p> <p>23 in December of 2017 through the time that you</p> <p>24 transitioned to Cunningham. Remind me when that</p> |

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| <p style="text-align: right;">Page 137</p> <p>1 was, please.</p> <p>2 A August, the exact date I think is</p> <p>3 the 24th, around that period of time, in 2018.</p> <p>4 Q All right. Thanks, yeah. So this</p> <p>5 period, you know, December '17 through August</p> <p>6 of '18, what percentage of the commissions from</p> <p>7 Gain were attributable to this Time Means Money</p> <p>8 program?</p> <p>9 A I think it was fairly consistent with</p> <p>10 what happened in the past.</p> <p>11 Q So that's 90 percent is attributable</p> <p>12 to the Time Means Money program --</p> <p>13 A I would have to access --</p> <p>14 Q -- correct?</p> <p>15 A Yeah. I would actually have to look</p> <p>16 to verify, but that's my recollection.</p> <p>17 Q All right. So then in the period</p> <p>18 December '17 through August of 2018, like maybe</p> <p>19 10 percent of the commissions from Cunningham were</p> <p>20 from like self-traded accounts. Is that fair to</p> <p>21 say?</p> <p>22 A Yeah, that's fair to say.</p> <p>23 Q And 90 percent are from the broker-assisted</p> <p>24 accounts?</p> | <p style="text-align: right;">Page 139</p> <p>1 Trading customers that participated in the trading</p> <p>2 program, you know, between June of 2015 and the</p> <p>3 present, we would just take all of the customers</p> <p>4 that had open accounts and we would subtract those</p> <p>5 self-traders that were listed on Exhibit 451,</p> <p>6 is that correct?</p> <p>7 A Correct.</p> <p>8 Q All right. So let's go back to the</p> <p>9 PDF portfolio, if we could, please. And I want</p> <p>10 to try to -- I want you to take a look at CFTC</p> <p>11 Exhibit 428.</p> <p>12 A Okay.</p> <p>13 Q All right. So this is an exhibit</p> <p>14 we put together. We didn't get this from you or</p> <p>15 anybody else. So you'll see it's like five pages --</p> <p>16 no, it's four pages. Yeah, it's four pages. All</p> <p>17 right. So let's look at the second page where it</p> <p>18 says Month End, Customer PNL, Cumulative Monthly</p> <p>19 Customer PNL. This is just for your time at Long</p> <p>20 Leaf. Take a moment to look at this. Does this</p> <p>21 look correct to you?</p> <p>22 A It looks correct. I would have to</p> <p>23 verify because I don't know what customers you</p> <p>24 included.</p> |
| <p style="text-align: right;">Page 138</p> <p>1 A Correct.</p> <p>2 MR. BURDEN: All right. Could we</p> <p>3 go off the record, please, for maybe ten</p> <p>4 minutes.</p> <p>5 MR. FALVEY: Sure.</p> <p>6 MR. BURDEN: Thank you.</p> <p>7 (Whereupon a recess was taken from</p> <p>8 3 p.m., to 3:15 p.m., after which</p> <p>9 the following proceedings were had:)</p> <p>10 Q All right. We were talking about CFTC</p> <p>11 Exhibit 450, which is a spreadsheet. So -- sorry.</p> <p>12 So is 450 sort of a lesser included like subset of</p> <p>13 what's on 452 or is it something different?</p> <p>14 A It is a subset based on whose accounts</p> <p>15 were actually open during the time frame of the</p> <p>16 complaint.</p> <p>17 Q Sorry. So is that -- so is 450 based</p> <p>18 on accounts that were open during the time frame</p> <p>19 of the complaint or accounts that were opened during</p> <p>20 the time frame of the complaint?</p> <p>21 A That were open, no e-d.</p> <p>22 Q Got it, thanks. All right. So</p> <p>23 if we wanted to figure out, you know, what the</p> <p>24 trading results, you know, were for Long Leaf</p> | <p style="text-align: right;">Page 140</p> <p>1 Q Yeah. I mean, we included all the</p> <p>2 customers from June 2015 through the present that</p> <p>3 had open accounts, and then we subtracted all of</p> <p>4 the accounts for persons you listed in Exhibit 451.</p> <p>5 You know, I just want to -- I just want to see</p> <p>6 if this looks about right to you or if you're</p> <p>7 looking at this and you're like, no, they -- you</p> <p>8 know, they made money in June of 2019.</p> <p>9 A And you're using the end-of-month statement</p> <p>10 to do the math?</p> <p>11 Q That's correct.</p> <p>12 A It looks correct.</p> <p>13 Q All right. Can you go to CFTC Exhibit 280,</p> <p>14 please.</p> <p>15 A Sorry?</p> <p>16 Q Sorry, 290.</p> <p>17 A Okay. Yes, I'm there.</p> <p>18 Q All right. Take a look at this</p> <p>19 document, if you would, please, and then tell</p> <p>20 me what it is.</p> <p>21 A It's a draft presentation for --</p> <p>22 Q All right. Sorry, go ahead.</p> <p>23 A -- for the new program in trading.</p> <p>24 Q All right. Was this presentation</p> |

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| <p style="text-align: right;">Page 141</p> <p>1 distributed to APs?</p> <p>2 A Yes.</p> <p>3 Q All right. Is this something that APs</p> <p>4 used with customers?</p> <p>5 A No.</p> <p>6 Q How do you know they didn't use it</p> <p>7 with customers?</p> <p>8 A This is just a work product that</p> <p>9 we hadn't approved. We were still working on the</p> <p>10 actual presentation.</p> <p>11 Q Got it. So this new trading program you</p> <p>12 described, is this your Edge strategy?</p> <p>13 A No -- yes and no. Edge strategy</p> <p>14 was more about the same trades we're doing in</p> <p>15 our core strategy. However, they were -- intraday</p> <p>16 we would see an opportunity and there were very few</p> <p>17 people that could respond in time. So there were</p> <p>18 only a very few people that received those trades,</p> <p>19 but they were the same types of trades as the other</p> <p>20 trades.</p> <p>21 Q Got it. So what's this new strategy then?</p> <p>22 A This is using either volatility swaps</p> <p>23 or a gut strangle, which is a lower risk trade.</p> <p>24 But then the others, the fundamentals or</p> | <p style="text-align: right;">Page 143</p> <p>1 did APs tell customers and prospective customers</p> <p>2 that Long Leaf targets 12 percent returns on an</p> <p>3 annual basis after commissions and fees?</p> <p>4 A I don't know.</p> <p>5 Q All right. Did Long Leaf APs</p> <p>6 tell customers that the Edge strategy opens up</p> <p>7 the possibilities for higher returns and allows</p> <p>8 us to tailor risk, it takes into account technical</p> <p>9 patterns and allows us to inject our expertise into</p> <p>10 our core strategy? So that's in Exhibit 290.</p> <p>11 Is that something that APs said to prospective</p> <p>12 customers?</p> <p>13 A No.</p> <p>14 Q How do you know?</p> <p>15 A That was not part of this -- the</p> <p>16 presentation that we actually gave to customers.</p> <p>17 This is a work product. This isn't the final</p> <p>18 product.</p> <p>19 Q Yeah, but what I'm asking you is</p> <p>20 did you ever hear an AP say that to a customer?</p> <p>21 A No.</p> <p>22 Q All right. Let's take a look, if we</p> <p>23 could, please, at CFTC Exhibit 409. Are you with</p> <p>24 me?</p> |
| <p style="text-align: right;">Page 142</p> <p>1 opportunistic were very similar to what we talked</p> <p>2 about in the prior where we would see an opportunity</p> <p>3 to do a two-legged spread because the market was</p> <p>4 going to move.</p> <p>5 Q All right. Is this new trading</p> <p>6 strategy something that you had like a name for?</p> <p>7 A I don't think we ever used an actual</p> <p>8 name for it.</p> <p>9 Q All right. Can we go to CFTC</p> <p>10 Exhibit 409. You know what, I'll tell you what.</p> <p>11 Let's stay here for a second. So we don't have to</p> <p>12 look at pages here. You know, one of the things</p> <p>13 that CFTC Exhibit 290 says is target 12 percent</p> <p>14 returns on an annual basis after commissions and</p> <p>15 fees. Is that something that the APs said to</p> <p>16 customers?</p> <p>17 A It's not in the final presentation.</p> <p>18 We never used this presentation.</p> <p>19 Q Yeah, but that's not what I'm asking</p> <p>20 you. Did APs tell customers that Long Leaf would</p> <p>21 target 12 percent returns on an annual basis after</p> <p>22 commissions and fees?</p> <p>23 A That's what our target was, yes.</p> <p>24 Q I didn't ask you about that. I asked</p> | <p style="text-align: right;">Page 144</p> <p>1 A Yes.</p> <p>2 Q Who is eric232@gmail.com?</p> <p>3 A I'm not sure.</p> <p>4 Q Is it a customer? Is it a prospective</p> <p>5 customer?</p> <p>6 A Yes, it is a prospective customer.</p> <p>7 Q All right. And you sent this bond</p> <p>8 replacement strategy thing to him, didn't you?</p> <p>9 A Yes, I did.</p> <p>10 Q Did you send this to other prospective</p> <p>11 customers?</p> <p>12 A No.</p> <p>13 Q Just this one guy, huh?</p> <p>14 A Yes.</p> <p>15 Q Do you remember his last name?</p> <p>16 A No, I don't.</p> <p>17 Q All right. So I want to look down</p> <p>18 at this -- at like the third page of Exhibit 409,</p> <p>19 and it's got a trade history that appears to show</p> <p>20 returns of 1.69 percent on a handful of trades that</p> <p>21 are listed. What is this trade history?</p> <p>22 A This is the trade history of the gut</p> <p>23 strangle trades.</p> <p>24 Q All right. And -- all right. So is this</p> |

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1 your new trading strategy?
 2 A One of them, yes.
 3 Q All right. And you're just showing this
 4 guy, eric232, just this gut strangle strategy and
 5 the results from that?
 6 A That's correct.
 7 Q So whose results are these? Is this
 8 from somebody's account? Is this -- are these
 9 hypothetical?
 10 A They're actual trades we made for
 11 certain individuals, I think three for sure, and
 12 they are only if you took one of each, which I think
 13 in that case they all just were one trade.
 14 Q Got it. And what were those
 15 individuals that were lucky enough to get these
 16 special gut strangle trades?
 17 A Martin Pegelow -- that might not be
 18 right. Mark Hartmann and I think Robert Mehr,
 19 but that may not be correct. I'd have to check
 20 and see.
 21 Q All right. Did any other Long Leaf
 22 customers get those trades or just those three
 23 guys?
 24 A I believe just those three.

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1 Q Got it.
 2 A Let me correct that. The ones in
 3 January I think there were more people involved,
 4 but the ones in August, October, July, September
 5 were only a small handful, and I think those were
 6 those three people.
 7 Q Got it. So who were some additional
 8 people that got those trades in January?
 9 A I know those three did. I don't have
 10 the exact names. It would be in the trade records.
 11 Q But is it like most of the customers or
 12 just a few, maybe the high rollers?
 13 A Just a few because of the amount of
 14 the premium that has to be paid on those trades.
 15 Q Was Eric Reeves a guy that maybe got these
 16 trades in January?
 17 A I don't think Eric was there in January.
 18 Q What about Campbell?
 19 A He wasn't there in January.
 20 Q And you don't remember the names
 21 of any of the other people that got these gut
 22 strangle trades?
 23 A I can look it up, but I don't know off
 24 the top of my head.

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1 Q Got it. All right. So trade
 2 history, is this something that you shared with
 3 other customers or that you told brokers to share
 4 with other customers? I mean, I know you said you
 5 only emailed this document to this one guy, eric232.
 6 But this trade history that just shows the gut
 7 strangle, is this something that you otherwise
 8 disseminated?
 9 A No, this is the only time we disseminated
 10 that set of data.
 11 Q Do you know if this guy, eric232, opened
 12 an account?
 13 A He did not.
 14 Q Yeah. So when you sent this trade
 15 history out, you know, did you explain to this guy
 16 that, you know, this was not reflective of results
 17 that people at Long Leaf Trading were getting?
 18 A No, we were (inaudible) by specific
 19 trades.
 20 Q Got it. And so you didn't bother
 21 to mention in this email that as of February 2019
 22 when you sent the email, Long Leaf customers had a
 23 cumulative monthly PNL of more than \$1.5 million.
 24 You didn't bother to mention that, did you?

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1 A No.
 2 Q All right. And you didn't bother to
 3 mention that in January of 2019 your customers
 4 lost -- sorry, in February of 2019 your customers
 5 lost more than 72 grand, did you?
 6 A No.
 7 Q You didn't bother to mention that
 8 in January of 2019 your customers lost 40 grand,
 9 did you?
 10 A No.
 11 Q And you didn't bother to mention in
 12 December of 2018 your customers lost a whopping
 13 \$119,000. That's not in the email either, is it?
 14 A No.
 15 Q But you're just showing this guy these
 16 like six trades that made a return. Have I got that
 17 right?
 18 A This was all the (inaudible) trades.
 19 Q What?
 20 A These were the only types of trades we
 21 were going to make.
 22 Q Yeah, that's not what I asked.
 23 A Is there a question?
 24 Q Yeah, you know, there was but I've

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1 got even better exhibits and I don't want to waste
2 more time on 409, which is only okay. Let's go to
3 CFTC Exhibit 411. Do you recognize this document?

4 A Yes.

5 Q What is it, please.

6 A It is the trade history of the gut
7 strangle trades.

8 Q Got it, okay. And it looks like you
9 are sending it to your APs, is that right, and also
10 your wife?

11 A Correct.

12 Q All right. And why did you send it
13 to these guys?

14 A It was to show how the trade works,
15 if you look at the bond February component of that.

16 Q You sent it to your APs so that they could
17 use it to solicit customers, right?

18 A I sent it to them as a trade history
19 of what happened.

20 Q And you expected them to share this with
21 prospective customers, isn't that right?

22 A No, I did not expect them to share it
23 with prospective customers.

24 Q Really. Did you tell them that they

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1 shouldn't share it with prospective customers?

2 A I don't remember. I struggle with the
3 concept of why I sent this.

4 Q Yeah, okay. Well, don't worry. So
5 let's look at CFTC Exhibit 479. Also, we're having
6 trouble hearing you.

7 A Okay. I'll get closer.

8 Q Thank you. Oh, sorry, sorry, sorry,
9 sorry, 411, 411. Oh, wait, no. Maybe it is 479.
10 All right. Give me a second here. Sorry, give me
11 just a moment. Okay, all right. Sorry, it's 480.

12 A All right.

13 Q So go to 480, if you would, please.

14 A Yep.

15 Q So this is a group exhibit. You'll see
16 it's two emails, one sent on March 7th, one sent on
17 March 15th of 2019 by Mr. Hatzigiannis. The first
18 is to jonblomgren@gmail.com. Do you know who that
19 person is?

20 A I believe he is a customer.

21 Q All right. So let's take a look at
22 what Mr. Hatzigiannis sent to him, and it's on the
23 next page. So what's that document?

24 A The trade history that I sent.

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1 Q Yeah. So he just turned around and sent
2 this out to customers, didn't he?

3 A Yes.

4 Q All right. So did he get in trouble for
5 that?

6 A No.

7 Q Did you know that he did that?

8 A Not at the time he did it, no.

9 Q Did you find out later?

10 A I found out reviewing the email.

11 Q When did you find that out?

12 A At the end of March when I reviewed
13 the email.

14 Q All right. So did Mr. Hatzigiannis
15 get in trouble for this?

16 A I told him not to forward those internal
17 documents.

18 Q All right. And when did you have this
19 conversation with Mr. Hatzigiannis?

20 A After my review. So early April, late
21 March --

22 Q Sorry. Did you memorialize that
23 conversation in any way?

24 A No. I told him anytime he's going to

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1 send something to a customer, to get my approval.

2 Q All right. Is that written down
3 anywhere? Do we have any evidence of that other
4 than your say-so?

5 A No.

6 Q Did you reach out to this customer,
7 Jon Blomgren and say, hey, that's not really our
8 trading record. Those aren't really our -- that's
9 not our real trade history. Did you go back and
10 tell him that?

11 A No, because this is the trade history
12 of that trading strategy.

13 Q Yeah. But did you go back and say,
14 hey, this is just the trading history of this
15 trading strategy? Generally speaking, our customers
16 by March of 2019 had lost --

17 A No.

18 Q -- \$1.6 million? Did you call Jon
19 Blomgren up and set the record straight there?

20 A No.

21 Q All right. So what about this other
22 guy that Hatzigiannis emailed these trading results
23 to, this new trade history? Billmtg@gmail.com,
24 who's that?

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1 A I don't recognize the email address.
 2 Q All right. Did you reach out to
 3 this guy and say, hey, you know, this is the trade
 4 history for this one trade. Our customers are down
 5 \$1.6 million. Did you say that?
 6 A No, I did not.
 7 Q You just let it lie, huh? That's a
 8 question.
 9 A What was the question?
 10 Q You just let it lie? You let it be?
 11 A Yes.
 12 Q All right. Let's take a look, if we could,
 13 please, at CFTC Exhibit 410.
 14 A Okay.
 15 Q All right. So there's an email
 16 dated February 25, 2019. It's you sending something
 17 here. It says Redacted Statements for On-Boarding.
 18 What is this, please. What are we looking at here?
 19 A It shows what a Cunningham statement
 20 would look like for somebody coming on board, and
 21 there should be one that has -- points to what this
 22 means, what that means and how to look at the --
 23 how to read the statement.
 24 Q Got it. So the idea is that you

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1 sent some redacted statements to your APs and you
 2 instructed them to go over this with new customers
 3 to show them how to read Cunningham statements?
 4 A Correct.
 5 Q Did the APs, in fact, do that?
 6 A I have found cases where they didn't
 7 do it and I've found cases where they did do it.
 8 Q All right. And whose statement is this
 9 that you redacted?
 10 A I don't know.
 11 Q All right. So let's take a look
 12 at this statement. Where on this statement do we
 13 see how the account is doing?
 14 A Net liq.
 15 Q All right. And where can I find that,
 16 please.
 17 A It is after you get past cash balance,
 18 long market, short market, and then you have net
 19 liquidating is the word.
 20 Q So the answer is it's on page 2 and it's
 21 \$14,034.80, correct?
 22 A Yeah.
 23 Q All right.
 24 A Yes.

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1 Q I've got a real question for you, and
 2 that's where on this statement does it show where
 3 the account started from?
 4 A It would only show if the current year
 5 was (inaudible) funded, and that would be under USD
 6 Cash 10001.
 7 Q Is that on this statement?
 8 A It is under Year to Date.
 9 Q Where is that?
 10 A It's the third line down.
 11 Q On what page, please.
 12 A On page 2.
 13 Q Got it. All right. How did I miss
 14 this, year to date. All right. It says negative
 15 \$8,874 is the year-to-date balance. What does that
 16 indicate?
 17 A That's the beginning balance.
 18 Q At the beginning of the year?
 19 A Yeah. I -- this may have been one
 20 that was transferred from Gain and, therefore,
 21 I'm not sure. The idea was not to depict any one
 22 specific one. It shows you where stuff comes in
 23 on the report. We sent something similar to this
 24 when we transitioned from Gain to Cunningham to

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1 show people how to read the Cunningham report.
 2 Q All right. So Exhibit 410, these
 3 redacted statements, they're actually from
 4 two different dates, is that -- that's right,
 5 February 1, 2019 and February 22, '19?
 6 A Correct. February 22nd and February 1st.
 7 Q All right.
 8 A The 1st of February.
 9 Q All right. You know what, I'm going
 10 to come back to this thing because I need to confer
 11 with my colleagues who understand these statements
 12 better than I do. All right. Would you turn to
 13 CFTC Exhibit 413.
 14 A I'm there.
 15 Q All right. So there's an email from
 16 you to Mr. Cybulski dated May 21, 2019. What are
 17 you sending him here?
 18 A These are the completed trade reports.
 19 Q What does that mean?
 20 A These are trades that have all of
 21 the components taken off and they are complete.
 22 Q And it's just for one customer, though,
 23 isn't it?
 24 A For that customer, yes.

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1 Q Yeah. It's for Eric Reeves, right?
 2 A Correct.
 3 Q All right. And it looks like Mr. Reeves
 4 as of May 21, 2019, his closed trades have resulted
 5 in a positive PNL of about \$1300, is that right?
 6 A That's correct.
 7 Q All right. So why did you send this
 8 to Mr. Cybulski?
 9 A Mr. Reeves asked for it.
 10 Q Say it again, please.
 11 A Mr. Reeves asked for it.
 12 Q Got it. And was Mr. Reeves Cybulski's
 13 customer?
 14 A Yes, he was.
 15 Q All right. Let's look at CFTC Exhibit 414,
 16 please.
 17 A Okay.
 18 Q All right. This is an email from you
 19 to your APs dated May 20, 2019. The subject is New
 20 Track Record, Track Record Core Strategy 5-20-19.
 21 And, yeah, so what's this, please.
 22 A This is what we deemed to be our core
 23 strategy, which is a gut strangle trade.
 24 Q All right. So this gut strangle

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1 trade, I thought that was your new strategy,
 2 is that right?
 3 A Yes.
 4 Q All right. So the new strategy
 5 is the same thing as the core strategy, is that
 6 right?
 7 A Yeah.
 8 Q All right. I just wanted to make sure
 9 we're speaking the same language here. And this
 10 new track record, as you describe it, it appears
 11 to show trades between July of '18 and May of '19.
 12 Am I reading this right?
 13 A Correct.
 14 Q And it shows a gain for these trades
 15 cumulatively of .63 percent, is that right?
 16 A Correct.
 17 Q All right. So does this new track
 18 record, does it show all of Long Leaf's trades
 19 between July '18 and May '19 or just these gut
 20 strangles?
 21 A It's the gut strangles, the core strategy.
 22 Q I see. So taking into account the
 23 other trades that you were making during this
 24 same time period, would that gain or loss still

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1 be positive or would it be negative?
 2 A I believe it would be positive or close.
 3 Q What's your basis for saying that?
 4 A Looking at the trades for Mr. Reeves
 5 that are considered other or non-core, those are
 6 the trades that are closed within that period.
 7 Q Where are you looking at these trades
 8 for Reeves?
 9 A On Exhibit 413 you have core closed trades
 10 and you have other trades.
 11 Q Yeah, but it looks like these trades are
 12 only from April and May of 2019.
 13 A We didn't do much trading in January
 14 or February.
 15 Q All right. So going back to 414, we've
 16 got our core trades between July '18 and May '19.
 17 You know, according to our records, by May of '19
 18 Long Leaf Trading's customers were down to the tune
 19 of \$1.7 million. So how can it be then that -- oh,
 20 it still isn't right. Let me check here. Yeah,
 21 no, you know, according to our records here -- all
 22 right. So 414, so CFTC Exhibit 414, this new track
 23 record, did you send this to your APs so that they
 24 could share this new track record with prospective

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1 customers?
 2 A Yes.
 3 Q All right. And, in fact, they did share
 4 this track record with prospective customers --
 5 A Yes.
 6 Q -- isn't that right?
 7 A Yeah.
 8 Q All right. I want you to take a look
 9 at CFTC Exhibit 470. So this is one of many emails
 10 that Mr. Hatzigiannis sent distributing this new
 11 track record. So you knew he sent this email that
 12 we see in Exhibit 470. This was okay to do by you,
 13 right?
 14 A Yes.
 15 Q All right. So this is showing profit and
 16 loss between July '18 and May '19 of .63 percent.
 17 Does this reflect Long Leaf Trading's customer
 18 results up through that date?
 19 A For those who took that trade, yeah.
 20 Q Was there anybody that just had these
 21 trades?
 22 A I don't believe any one person only
 23 had these trades.
 24 Q Got it. So were there any customers

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1 that had actually between July and May achieved
 2 these -- the PNL reflected here, .68 percent
 3 I think?
 4 A On these trades, I don't believe any
 5 one person had every one of those trades.
 6 Q All right. So why did you show just --
 7 so these results we're seeing, this new track
 8 record, does that reflect, you know, real trading
 9 in any one customer's account?
 10 A No, since this is only based on one
 11 trade. So if somebody had two or somebody had
 12 three, it would be a different number.
 13 Q Yeah, that's not what I'm asking
 14 and you know it. What we're looking at here is the
 15 rate of return. Is there anybody at Long Leaf who
 16 made only these core trades during this period and
 17 achieved a rate of return of, you know, .68 percent?
 18 A I -- I don't know.
 19 Q So this is just hypothetical, right?
 20 A No, these are actual trades.
 21 Q Yeah. But they're not actual trades
 22 that any one person had in their account, are they?
 23 A I would have to -- I would have to
 24 review it, whether somebody had each one of these

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1 trades in their account. The only three that could
 2 would be the ones that got the first three accounts.
 3 Q Got it. So the majority of your
 4 customers, which is to say all of them but three,
 5 definitely didn't have these trades or get that rate
 6 of return, correct?
 7 A They didn't have these trades, correct.
 8 Q All right. And they didn't get that rate
 9 of return, did they?
 10 A Not if they didn't have the trades.
 11 Q All right. And when in Exhibit 414
 12 you sent this new track record to your APs to
 13 distribute, you know, did you tell them, hey, make
 14 sure customers know that since December of 2017
 15 we've lost \$1.7 million of their money? Did you
 16 tell the APs that?
 17 A No, I did not.
 18 Q All right. And, in fact, when you
 19 sent this to the APs in May, you know, that month --
 20 or, sorry, I should say the month before, you guys
 21 lost \$45,000 of customer money, isn't that right?
 22 A Based on the way you calculated it, yes.
 23 Q Okay. And isn't it true that in March you
 24 lost \$56,000 worth of customer funds?

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1 A Based on the way you calculated it, yes.
 2 Q And isn't it true that in February you
 3 lost \$72,000 of customer funds?
 4 A Based on the way you calculated it, yes.
 5 Q And isn't it true that in January of 2019
 6 you lost \$40,000 of customer funds?
 7 A Based on the way you calculated it, yes.
 8 Q Isn't it true that in December of 2018
 9 you lost \$119,000 in customer funds?
 10 A Based on the way you calculated it, yes.
 11 Q Isn't it true that in November of 2018
 12 you lost \$305,000 in customer funds?
 13 A Based on the way you calculated it, yes.
 14 Q And isn't it true that by November --
 15 by May, the end of May of 2019, since you started at
 16 Long Leaf customers had lost more than \$1.7 million
 17 cumulatively?
 18 A Based on the way you calculated it, yes.
 19 Q Did you tell any of that to prospective
 20 customers?
 21 A No.
 22 Q Don't you think it's a little bit
 23 misleading to have your APs send out this new track
 24 record showing positive returns of .63 percent given

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1 Long Leaf's -- given your -- epically bad trading
 2 results that your customers suffered?
 3 A Could you repeat what the question was?
 4 Q Yeah. Don't you think it's a little
 5 bit misleading to have your APs send out this
 6 new track record given Long Leaf Trading's amazing
 7 losses they had accrued for their customers at that
 8 point?
 9 A This is a new strategy. It's completely
 10 different than what we've done before with a
 11 completely different person trading it.
 12 Q But it isn't a completely different person
 13 trading it. It's you, isn't it?
 14 A Mr. Gecas was in charge of trade
 15 development until we let him go.
 16 Q When did you let him go?
 17 A I'm sorry?
 18 Q When did you let him go?
 19 A When? In December of 2018.
 20 Q So how did you do by yourself in January?
 21 A We hardly traded anything.
 22 Q You lost \$40,000. How did you do in
 23 February? You lost \$72,000, didn't you?
 24 A Based on the way you're calculating it,

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| <p style="text-align: right;">Page 165</p> <p>1 yes.</p> <p>2 Q You say that like you don't agree with</p> <p>3 the way I'm calculating it. Are you calculating</p> <p>4 it a different way? Do you have another set of</p> <p>5 calculations where your customers made money and</p> <p>6 don't lose all of their retirement accounts?</p> <p>7 A On a month-to-month basis there is</p> <p>8 realized PNL and unrealized PNL. These reports</p> <p>9 are talking about realized PNL. If the trade</p> <p>10 is open, you don't know what the results of that</p> <p>11 trade's going to be. However, the report will show</p> <p>12 gains and losses on the movement on unrealized PNL.</p> <p>13 Q Yeah, but that's not what we're talking</p> <p>14 about. Our calculations that are reflected in CFTC</p> <p>15 Exhibit 428, which you agreed is the right way to</p> <p>16 calculate things, reflect closed trades. So why</p> <p>17 are you talking to me about open trades?</p> <p>18 A Because there's PNL in the report on</p> <p>19 open trades.</p> <p>20 Q Yeah, I've got to tell you I don't</p> <p>21 know where you're going with that. And even if</p> <p>22 it is a -- even if it is a new kind of trade that</p> <p>23 you're doing, don't you think it would be material</p> <p>24 to customers to know how Long Leaf has performed</p> | <p style="text-align: right;">Page 167</p> <p>1 a look, if we could, please, at CFTC Exhibit 438.</p> <p>2 And let me know when you're there, please.</p> <p>3 A Here.</p> <p>4 Q All right. What's CFTC Exhibit 438,</p> <p>5 please.</p> <p>6 A It is a closed trade report.</p> <p>7 Q All right. And it's for a customer</p> <p>8 of Long Leaf Trading named Wells, is that right?</p> <p>9 A Yes, but the account is MHoldings, LLC.</p> <p>10 Q I see. And you're a little garbled,</p> <p>11 Mr. Donelson. Maybe you could --</p> <p>12 A The name of the client is Gary Wells.</p> <p>13 However, the account is under MHoldings, LLC.</p> <p>14 Q Got it, got it, got it. All right.</p> <p>15 So let's take a look at CFTC Exhibit 438. It looks</p> <p>16 like there is an account summary of closed trades in</p> <p>17 Mr. Wells' account that you generated here and you</p> <p>18 sent to Mr. Hatzigiannis, is that right?</p> <p>19 A Correct.</p> <p>20 Q All right. And what's the date of this</p> <p>21 email? It's May 14, 2019, right?</p> <p>22 A Correct.</p> <p>23 Q All right. So Mr. Wells it looks</p> <p>24 like did a whole bunch of your core closed trades.</p> |
| <p style="text-align: right;">Page 166</p> <p>1 for customers in the past?</p> <p>2 A If it is continuing the strategies that</p> <p>3 produced those results, yes.</p> <p>4 Q You don't think a customer would</p> <p>5 think it was important to his or her decision</p> <p>6 to invest with Long Leaf knowing that Long Leaf</p> <p>7 had lost millions of dollars for customers up to</p> <p>8 that point? You don't think they would have cared?</p> <p>9 You think they would have been like, you know what,</p> <p>10 it's a new kind of trade. Is that what you think?</p> <p>11 A No.</p> <p>12 Q Yeah, I asked that question a terrible</p> <p>13 way and so your answer didn't make a lot of sense.</p> <p>14 Let me ask it in a better way. Do you agree that</p> <p>15 it would be material to a customer to know how Long</p> <p>16 Leaf's other customers had fared in the past?</p> <p>17 A Yes, if we were doing the same strategies.</p> <p>18 Q So you think that if you told a customer</p> <p>19 we're doing something new, it would be completely</p> <p>20 immaterial to them what Long Leaf's past performance</p> <p>21 had been?</p> <p>22 A I don't agree that it would be completely</p> <p>23 immaterial.</p> <p>24 Q All right. So I want you to take</p> | <p style="text-align: right;">Page 168</p> <p>1 Do you see that?</p> <p>2 A Correct.</p> <p>3 Q So how did he do on your core closed</p> <p>4 trades?</p> <p>5 A He lost \$2,443.</p> <p>6 Q All right. And that's as of May 2019,</p> <p>7 right?</p> <p>8 A Correct.</p> <p>9 Q Did you share this with customers?</p> <p>10 Did you say, hey, customers, here's our new track</p> <p>11 record, except that one of these guys lost \$2,400</p> <p>12 doing our core trades? Did you share this with any</p> <p>13 other customers?</p> <p>14 A I -- I believe on the track records we</p> <p>15 do show that.</p> <p>16 Q Yeah, you're telling -- that's not</p> <p>17 what I asked you because we already looked at</p> <p>18 the track record. I'm asking you did you tell</p> <p>19 customers that one of your other customers, to wit,</p> <p>20 Mr. Wells, lost \$2,400 doing these core trades?</p> <p>21 Did you tell them that?</p> <p>22 A No. We don't share other customers' --</p> <p>23 Q You're breaking up again. You've got to</p> <p>24 get close to the phone.</p> |

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| <p style="text-align: right;">Page 169</p> <p>1 A I said we don't share other customers'</p> <p>2 results with another customer.</p> <p>3 Q I can see why. Let's look at CFTC</p> <p>4 Exhibit 439 -- sorry, 440. So this is an email</p> <p>5 from you in May of 2014 -- or, sorry, May 14,</p> <p>6 2019 to Ben Cybulski, and here you are sending</p> <p>7 Mr. Cybulski a trading summary for another client,</p> <p>8 Ben Anderson. Have I got that right?</p> <p>9 A That is correct.</p> <p>10 Q So this guy did some core trades as</p> <p>11 well, didn't he?</p> <p>12 A Correct.</p> <p>13 Q And how did he do on them?</p> <p>14 A He lost \$795.</p> <p>15 Q All right. So did you tell that to</p> <p>16 any of the customers who got this new track record?</p> <p>17 Were you like, hey, one of my customers lost \$795</p> <p>18 doing these?</p> <p>19 A No.</p> <p>20 Q All right. So it's starting to</p> <p>21 come together for me here. So this new track</p> <p>22 record you're having the APs send out, you know,</p> <p>23 this is the set of core -- this is the set of these</p> <p>24 gut strangle trades, and it's the results that would</p> | <p style="text-align: right;">Page 171</p> <p>1 a customer.</p> <p>2 Q Oh, boy. How did he do?</p> <p>3 A I'm not sure if he even traded or, if he</p> <p>4 traded, it was very few contracts.</p> <p>5 Q All right. So let's get back to</p> <p>6 Exhibit 300 here. So Exhibit 300 Mr. Stemper</p> <p>7 writes, "Good morning, Jack. Hope all is well.</p> <p>8 If you have any questions on the application, let</p> <p>9 me or Vicki know. Since you will be trading with</p> <p>10 \$100,000, I attached an updated performance report</p> <p>11 for one of our larger accounts. This is the same</p> <p>12 account that I should you before." I think he meant</p> <p>13 "showed" you.</p> <p>14 All right. And so if you look,</p> <p>15 you'll see a \$628,000 account with trades between</p> <p>16 April of '19 and August of '19.</p> <p>17 A Yes.</p> <p>18 Q And it looks like there's profit there</p> <p>19 of 37 grand. Am I reading that right?</p> <p>20 A Yes.</p> <p>21 Q All right. So this looks like</p> <p>22 something that maybe you put together. Did you</p> <p>23 put this together?</p> <p>24 A Yes.</p> |
| <p style="text-align: right;">Page 170</p> <p>1 be in somebody's account if they had traded one</p> <p>2 contract for each of these gut strangles but had</p> <p>3 not done any other of your trade recommendations</p> <p>4 during that same period. Have I got that right?</p> <p>5 A Correct.</p> <p>6 Q All right. I see now. Was there</p> <p>7 any customer at Long Leaf who in fact just did</p> <p>8 those core trades between July '18 and May '19 and</p> <p>9 traded one contract and did no other trades? Was</p> <p>10 there anybody like that?</p> <p>11 A I don't believe so.</p> <p>12 Q All right. So let's, if we could,</p> <p>13 please, let's go to CFTC Exhibit 300. And let me</p> <p>14 know when you're there, please.</p> <p>15 A Okay, I'm here.</p> <p>16 Q All right. So this is an email from</p> <p>17 Mr. Stemper to Jack Lattner dated August 28, 2019</p> <p>18 and the subject is Performance Update. So do you</p> <p>19 know who Mr. Lattner is?</p> <p>20 A Yes, I do.</p> <p>21 Q Who's that?</p> <p>22 A I'm sorry?</p> <p>23 Q Who is Mr. Lattner, please.</p> <p>24 A He joined very late in 2019. He's</p> | <p style="text-align: right;">Page 172</p> <p>1 Q All right. And did you give it</p> <p>2 to Mr. Stemper so that he could distribute it</p> <p>3 to prospective customers?</p> <p>4 A I gave it to him to give to this customer.</p> <p>5 Q All right. Was this something that any</p> <p>6 other customers were provided with?</p> <p>7 A No.</p> <p>8 Q All right. So are these results</p> <p>9 that Long Leaf Trading APs discussed on calls with</p> <p>10 other prospective customers or existing customers?</p> <p>11 A They wouldn't discuss this specific</p> <p>12 report, but they would discuss the specific trades</p> <p>13 that we're making.</p> <p>14 Q When you say "specific trades" --</p> <p>15 I mean, you know what I'm interested in here.</p> <p>16 Did the APs on calls with prospective customers</p> <p>17 ever talk about this account that generated, you</p> <p>18 know, during these four months 37 grand in profits?</p> <p>19 Was that something that was touted by APs, to your</p> <p>20 knowledge?</p> <p>21 A No.</p> <p>22 Q Did you provide these results to any</p> <p>23 of the other APs?</p> <p>24 A I would have provided it to Mr. Cybulski</p> |

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1 because it's his customer.
 2 Q Got it. And that customer is Reeves?
 3 A Correct.
 4 Q All right. Do you know if Mr. Cybulski
 5 talked about these results with any customers or
 6 prospective customers?
 7 A These specific ones?
 8 Q Yeah.
 9 A Not that I know of.
 10 Q Did Mr. Cybulski discuss the
 11 profits in Mr. Reeves' account with customers
 12 or prospective customers? Without using his name,
 13 of course.
 14 A Not that I know of.
 15 Q I mean, what I'm trying to get at
 16 here, Mr. Donelson, is is this another one of your
 17 new track records you're giving to APs to give to
 18 other people?
 19 A No.
 20 Q All right. What ultimately happened
 21 to Mr. Reeves' account? How did he do in the end?
 22 A I think he lost about a hundred thousand
 23 dollars.
 24 Q Right. And, in fact, the four

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1 months that are reflected on this performance
 2 report, Exhibit 300, you know, this is the only
 3 period, the only combination of months where trading
 4 at Long Leaf could mathematically be profitable,
 5 correct?
 6 A I don't know --
 7 Q All right. I've got a good --
 8 A -- (inaudible) detail.
 9 Q All right. I've got a good email
 10 to demonstrate this. Hang on. Oh, I've got
 11 it. Oh, all right. Okay, here we go. So let's
 12 look at CFTC Exhibit 416. So is this you sending
 13 Mr. Stemper -- it says Trading Update All Trades
 14 dated September 5, 2019, and we've got an account
 15 here showing trades for just two months, July and
 16 August of 2019, and there's profits here of three
 17 grand in this account. So whose account is this?
 18 A I'm not sure.
 19 Q Why did you send this to Mr. Stemper?
 20 A It's showing one of his customers,
 21 I'm assuming.
 22 Q Did you send this to Mr. Stemper so
 23 that he could share it with prospective customers?
 24 A This was to share with a specific customer.

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1 Q What customer was that?
 2 A I don't know. I don't see it on the
 3 report.
 4 Q All right. So it sounds like you
 5 don't remember, is that fair to say?
 6 A Correct.
 7 Q All right. So let's look at CFTC
 8 Exhibit 200. So you'll see this is an email
 9 from James Hatzigiannis to theelauto@gmail.com
 10 and it says Edge Strategy Performance - 1 Contract.
 11 It's dated September 10, 2019. So who's theelauto?
 12 It looks like it's addressed to Wally. Who's that,
 13 please.
 14 A I don't know who Wally is.
 15 Q All right. Well, I just picked this
 16 one as an example. Mr. Hatzigiannis sends dozens
 17 of these. You knew that, didn't you?
 18 A Yes.
 19 Q All right. And the subject is
 20 Track Record Update See Attach - Long Leaf Edge
 21 Strategy Performance. And he says, "Greetings,
 22 Wally. How have you been? It has been a while.
 23 I hope business is well. I wanted to provide you
 24 an update of what we have been doing. Attached is

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1 a track record of our recent performance. And as
 2 you can see, the results are there and we have had
 3 a great summer."
 4 And if you look at the
 5 attachment, we've got a bunch of trades from
 6 June through September of 2019 and it says profit
 7 \$5,978. Am I reading that right?
 8 A Correct.
 9 Q And it says Core Closed Trades, is that
 10 right?
 11 A Correct.
 12 Q All right. So this looks like
 13 something you put together. Did you put this
 14 together?
 15 A Yes.
 16 Q And did you have Mr. Hatzigiannis send
 17 this to customers?
 18 A I allowed him to send it to customers.
 19 Q You knew he was doing it, right?
 20 A Yes.
 21 Q Did Cybulski share this with customers
 22 as well?
 23 A I believe so.
 24 Q All right. So whose account are we

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| <p style="text-align: right;">Page 177</p> <p>1 looking at in CFTC Exhibit 200?</p> <p>2 A I think this is only one -- basically if</p> <p>3 somebody took one trade a week, one of the trades,</p> <p>4 this is what the (inaudible).</p> <p>5 Q Got it. So this is a hypothetical</p> <p>6 track record if some person took all of your</p> <p>7 recommendations for one contract between June and</p> <p>8 September of 2019 on these gut strangles, right?</p> <p>9 A These are all gut strangles.</p> <p>10 Q Yeah, I know that. So these are</p> <p>11 hypothetical results. There's no person whose</p> <p>12 account reflects this at Long Leaf, correct?</p> <p>13 A I don't believe so. I would have to</p> <p>14 check.</p> <p>15 Q Sorry, I asked that question badly.</p> <p>16 Let me do it again, please. So we're looking</p> <p>17 here at CFTC Exhibit 200. Is there any person at</p> <p>18 Long Leaf whose account reflects these results?</p> <p>19 A Possibly Eric Reeves' IRA account would</p> <p>20 reflect those results.</p> <p>21 Q Yeah, but it just reflects core --</p> <p>22 this just shows the core closed trades. It doesn't</p> <p>23 show any of the other trades that you guys had been</p> <p>24 doing, correct?</p> | <p style="text-align: right;">Page 179</p> <p>1 account and then an IRA account, and his IRA account</p> <p>2 traded one of every trade.</p> <p>3 Q So when did those -- when did that start?</p> <p>4 A I don't -- I would have to check when</p> <p>5 that actually started.</p> <p>6 Q Was it before June?</p> <p>7 A No, it was around June. I don't know</p> <p>8 if all those trades were in (inaudible) trades.</p> <p>9 Q Got it. So let's look at CFTC Exhibit 201,</p> <p>10 if we could, please. All right. And this is an</p> <p>11 email from Mr. Hatzigiannis to tkranch93@msn.com</p> <p>12 from October 7th of 2019. Who's -- it looks like</p> <p>13 it's Tim is the customer, prospective customer's</p> <p>14 name. So what -- who is tkranch93?</p> <p>15 A I don't know. I don't believe he</p> <p>16 (inaudible) a customer.</p> <p>17 Q Got it. All right. So Mr. Hatzigiannis</p> <p>18 writes, "I trust you're well. Please see attachment</p> <p>19 of an update of our trades. We have closed 26 of</p> <p>20 our past 30 trades for a profit. This attachment</p> <p>21 shows results for our most conservative client,</p> <p>22 who would only take one contract per position.</p> <p>23 It can be scaled up. I have clients that take</p> <p>24 as much as 15 contracts per position. Ever since</p> |
| <p style="text-align: right;">Page 178</p> <p>1 A There aren't any other trades we were</p> <p>2 doing.</p> <p>3 Q So from June 2019 to September 2019</p> <p>4 you guys were just doing these gut strangles?</p> <p>5 A And volatility swaps.</p> <p>6 Q All right. Does Exhibit 200 reflect</p> <p>7 the volatility swaps as well? Are those part of</p> <p>8 your core trades?</p> <p>9 A Yeah, they are reflected in there.</p> <p>10 They would be any trades related to silver, any</p> <p>11 trades related to ag.</p> <p>12 Q All right. So CFTC Exhibit 200</p> <p>13 reflects hypothetical results for an account</p> <p>14 if that account traded one contract for all of</p> <p>15 the recommendations that Long Leaf provided between</p> <p>16 June and September of 2019, is that right?</p> <p>17 A Correct.</p> <p>18 Q Is there any actual account where that</p> <p>19 happened?</p> <p>20 A I would have to check, but I think Eric</p> <p>21 Reeves' IRA account would reflect those trades.</p> <p>22 Q But did Mr. Reeves' IRA account begin</p> <p>23 trading in June? I can't recall.</p> <p>24 A He had two accounts, his regular</p> | <p style="text-align: right;">Page 180</p> <p>1 we've implemented our Edge strategy we have seen</p> <p>2 amazing results."</p> <p>3 Did you know that Mr. Hatzigiannis</p> <p>4 sent this email?</p> <p>5 A Yes.</p> <p>6 Q All right. And that was because you</p> <p>7 told him to, didn't you?</p> <p>8 A I didn't tell him to. I allowed him</p> <p>9 to send this report.</p> <p>10 Q All right. So this report that shows</p> <p>11 profits of \$6,000 and change from June through</p> <p>12 September of 2019, that's something you generated?</p> <p>13 A Yes.</p> <p>14 Q All right. So did Mr. Stemper or</p> <p>15 Mr. Cybulski send these results to customers as</p> <p>16 well?</p> <p>17 A I'm not sure. I'm not sure.</p> <p>18 Q All right. Well, let's go back, if we</p> <p>19 could, please, to CFTC Exhibit 428.</p> <p>20 A Okay.</p> <p>21 Q So I want you to look at our monthly</p> <p>22 customer PNL and cumulative monthly customer PNL.</p> <p>23 So these new trading -- the new track records and</p> <p>24 the updated trading reports that you had your APs</p> |

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1 send out, those just feature trades from June
 2 through September, is that correct?
 3 A The trading report, the one I just
 4 saw, was an actual account. That is Mr. Reeves'
 5 IRA account.
 6 Q Yeah, I'm trying to -- what I'm trying
 7 to do, Mr. Donelson, is find a common denominator,
 8 and I think we can get there because I think you
 9 want to tell me your crazy story and I want to hear
 10 it. You know, it seems to me that what you're doing
 11 when you're allowing -- providing APs with these
 12 track records or updated trade results and then
 13 having the APs share those trade results with
 14 customers and prospective customers is you're
 15 just taking those trades that were recommended
 16 in June through September, is that right? Is that
 17 what you were doing?
 18 MR. FALVEY: Ashley, you broke up on
 19 the months. Otherwise we heard everything.
 20 MR. BURDEN: Got it. Okay, sorry. So
 21 let me do it again because I'm sure I can do
 22 it better.
 23 Q You know -- so, you know, you're sending,
 24 you're sending -- you're providing APs with these

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1 new track records or updated trading results, you
 2 know, in sort of mid 2019, and these APs with your
 3 blessing are sharing these new track records and
 4 updated trading results with some customers and
 5 prospective customers, right?
 6 A Correct.
 7 Q All right. So looking at these
 8 exhibits, you know, Exhibit 414, Exhibit 470,
 9 Exhibit 415, 416, 200, 201, you know, it looks
 10 to me like in your mind this new track record and
 11 these updated trading results, they just include
 12 trades from June 2019 through September of 2019.
 13 Is that fair to say?
 14 A I agree that's what they have, yes.
 15 Q Okay. And that is what you wanted
 16 these new track records or updated trading results
 17 to reflect, right?
 18 A I wanted them to reflect the most recent
 19 trading.
 20 Q And what was the time period for that
 21 trading that you wanted these new track records or
 22 updated results to reflect?
 23 A Three to four months.
 24 Q And in particular those three to

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1 four months are May 2019 through September 2019,
 2 is that right?
 3 A Yeah.
 4 Q All right. So that brings us back
 5 to CFTC Exhibit 428. So if you look at monthly
 6 customer PNL for closed trades by the end of
 7 May, June, July, August and September, you get
 8 a positive number, isn't that right?
 9 A The monthly PNL wasn't closed trades.
 10 Q What is it then?
 11 A It is closed trades plus open trades.
 12 Q All right. But that's not right.
 13 We just looked at these exhibits and all of them,
 14 all of your new track records, all of your trading
 15 results, your updated trading results, they all
 16 depict closed trades, right?
 17 A Correct.
 18 Q All right. So why are you talking to
 19 me about open trades?
 20 A The monthly customer PNL that you're
 21 depicting --
 22 Q No. I told you before, Mr. Donelson,
 23 Exhibit 428 reflects closed trades at the end of
 24 the month, all right?

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1 A And open trades.
 2 Q It does not reflect that and that
 3 is not how we calculated it. This just reflects
 4 closed trades. So what I want to try to suggest,
 5 and what I want to ask you about, is it seems to
 6 me that by selecting closed trades from May 19
 7 through September of 2019, you have magically
 8 cherry-picked the only span of time in Long Leaf
 9 Trading's history, with you or ever, where the
 10 recommendations generated a profit for some
 11 customers on paper. Is that fair to say?
 12 A I did not cherry-pick the period.
 13 Q All right. And you'll see that in
 14 October, in November and in December, you lost
 15 for these customers any gains that any of them may
 16 have enjoyed, isn't that right?
 17 A Correct.
 18 Q All right. So I want to show you
 19 what we've marked as CFTC Exhibit -- all right.
 20 Hang on a sec. All right. Let me do that again.
 21 So for these new track records and updated trading
 22 results that you generated for the APs to share,
 23 the period that those track records and statements
 24 reflect, that May through September of 2019, that

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| <p style="text-align: right;">Page 185</p> <p>1 is the only period during your tenure at Long 2 Leaf, the only combination of months where trading 3 recommendations could ever be construed as 4 positive. Is that fair to say? 5 A Not according to your report because 6 May of 2018 through October of 2018 would also 7 have positive results. 8 THE REPORTER: I'm sorry. I'm sorry, 9 Ashley. I cannot hear you, Mr. Donelson. 10 You're going to have to repeat your answer 11 and please, please stay close to the phone. 12 THE WITNESS: I said from May of 2018 13 through October of 2018 it would also show 14 a positive result. 15 THE REPORTER: Thank you. 16 BY MR. BURDEN: 17 Q You know what, I guess you're right. 18 Yeah, I guess that's true. But if you had gone 19 back from September of 2019 to, say, March of 2019, 20 it would be negative, wouldn't it? 21 A September of 2019 to when? I'm sorry. 22 Q March of 2019. 23 A Yeah, it would be. 24 Q What about April, April 20 -- and</p> | <p style="text-align: right;">Page 187</p> <p>1 shows results for an individual client that just 2 takes on one contract per trade. We have clients 3 that take on as many as 16 contracts per position. 4 We have seen great results of late and that is due 5 to the combination of how we manage these positions 6 and all the uncertainty surrounding these markets." 7 And he says, "Hi Jim. Can I send this email out to 8 people that I have taken through the sales process?" 9 And you say -- correctly -- "The issue I have is 10 that it is a selective list of only the last few 11 months. The argument would that it could be viewed 12 as misleading if it is not indicative of the full 13 year or life of the strategy." Did you write that? 14 A Yes. 15 Q And Jim says -- or James Hatzigiannis says, 16 "Sounds good. I agree." So how is this different 17 than what you were already doing? 18 A I don't select the PDF he was showing. 19 Q But what does it matter? You wrote, 20 "The issue I have is that it is a selective list 21 of only the last few months. It could be viewed as 22 misleading if it is not indicative of the full year 23 or life of the strategy." Isn't that what you 24 wrote?</p> |
| <p style="text-align: right;">Page 186</p> <p>1 I'm just asking this because I get the sense 2 you're better at math than me. What about April 3 of '19 through September of '19, would that be 4 positive or negative monthly PNL for customers 5 that traded during those months? 6 A Given your numbers, it would be I'd say 7 close to breakeven I think. 8 Q All right. And breakeven is zero, isn't 9 it? 10 A Yes. 11 Q All right. Let's look at CFTC Exhibit 477, 12 if we could, please. 13 A 477? 14 Q Yes, please. 15 A Okay. 16 Q All right. So this is a series of 17 emails between you and Mr. Hatzigiannis. It looks 18 like Mr. Hatzigiannis is sending you a draft email 19 in October of 2019 to send to prospective customers, 20 is that right? 21 A Correct. 22 Q All right. And so in his draft he's, 23 you know, he's saying, "We have closed out 30 of 24 our past 35 trades for a profit. The link below</p> | <p style="text-align: right;">Page 188</p> <p>1 A Yes. 2 Q Isn't that what we just saw you 3 do in Exhibits 200, 201, 416, 415 and 300? You 4 just had your APs send customers a selective list 5 of the past few months. Isn't that what we just 6 saw? 7 A Yes. 8 Q All right. So you said the argument 9 is this could be viewed as misleading if it is not 10 indicative of the full year life of the strategy, 11 but you didn't have the APs give customers the full 12 year life of any strategy. You had them -- you had 13 them give customers the three to four best months 14 in Long Leaf's history, isn't that right? 15 A We were showing the report for the 16 last -- I'm sorry. We are showing reports from 17 the strategies in the last four to five months of 18 them. 19 Q I know. But I just -- I'm losing it. 20 MR. BURDEN: Mary, would you read back 21 my last question, please, because I definitely 22 didn't get an answer. 23 (Whereupon the portion of the 24 record was read as requested.)</p> |

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1 A We were producing the report from
2 a point in time to a point in time, a five- to
3 six-month window.
4 Q No, it wasn't. It was a three- to
5 four-month window and it wasn't the full year
6 life of the strategy, was it? Listen, this
7 is fraud no matter how you cut it. I'm just
8 trying to figure out how you sent this email to
9 Mr. Hatzigiannis in October 23rd of 2019 after
10 you've just had your APs sending out all these
11 phony track records. I just -- it seems completely
12 contradictory to me and I earnestly want you to
13 explain it. Did you like change your mind?
14 You can change your mind.
15 A I don't know what report he was showing
16 me.
17 Q Yeah, I don't think it matters, though.
18 A Well, if he's only showing one month
19 or a month and a half, it does matter because we're
20 going back --
21 Q No. He says in his email here
22 we closed out of 30 of the past 35 trades for
23 a profit, so I guess it doesn't show you the time
24 period. So you get a sense of how many trades that

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1 is, don't you?
2 A I don't know. I don't know how many
3 30 to 35 trades were, what time period that went
4 back to.
5 Q All right. Well, I'll tell you what.
6 Let me go get it on a break.
7 A Are we taking a break?
8 Q You know what, why don't we. Can we come
9 back in ten, please.
10 A Sure.
11 MR. BURDEN: All right, thanks. Off the
12 record, please.
13 (Whereupon a recess was taken from
14 5:03 p.m., to 5:23 p.m., after which
15 the following proceedings were had:)
16 BY MR. BURDEN:
17 Q All right. Mr. Donelson, did you
18 submit any of your new track records or updated
19 performance reports to the NFA for approval?
20 A No.
21 Q All right. In your answer you
22 suggested -- sorry, your answer to our complaint
23 you suggested that an attorney had reviewed some
24 of your solicitations. What's the name of that

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1 attorney, please.
2 A It would be Rebecca Wing.
3 Q Oh, boy. So when did --
4 MR. FALVEY: Sorry, Ash. Do you mind
5 asking the question again?
6 MR. BURDEN: Sure.
7 MR. FALVEY: (Inaudible) objection, but
8 anyway.
9 MR. BURDEN: That's all right. Yeah,
10 I don't mind. You can object to these or not
11 object, you know what I'm saying? I just don't
12 want somebody to pop out of a box and say, oh,
13 this is a defense or, oh, it isn't. We can't
14 hear you guys that well also.
15 MR. FALVEY: I'll talk louder.
16 THE WITNESS: You've got to talk louder.
17 BY MR. BURDEN:
18 Q All right. Mr. Donelson, you
19 responded to our complaint in your answer by
20 saying that an attorney had reviewed some of
21 Long Leaf's solicitation materials, right? Do
22 I gotta show it to you?
23 MR. FALVEY: I have it handy. Was it the
24 affirmative defense?

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1 MR. BURDEN: Give me just one moment,
2 though you really ought to know.
3 MR. FALVEY: Yeah, okay.
4 MR. BURDEN: So it is -- I don't know
5 why I'm telling you guys this -- paragraph 35.
6 You say, "Donelson admits that subsequent to
7 January 1, 2018 representatives of Long Leaf
8 used scripts approved by Long Leaf's attorney
9 in soliciting customers." Do you guys see it?
10 MR. FALVEY: Yeah.
11 BY MR. BURDEN:
12 Q All right. What's the name of that
13 attorney?
14 A That was Rebecca Wing and it was the
15 original part of the acquisition going through the
16 scripts -- the presentation and the bullet points
17 that were presented to us at the acquisition.
18 Q Got it. So Rebecca Wing reviewed the
19 presentation -- you know, let me get the exhibit
20 numbers for those.
21 A I think it was the one you emailed us.
22 Q It was.
23 A 4 --
24 Q All right. So CFTC Exhibit 485,

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| <p style="text-align: right;">Page 193</p> <p>1 so your testimony is that Ms. Wing reviewed that?</p> <p>2 A Prior to the acquisition.</p> <p>3 Q All right. I mean, it says in your</p> <p>4 answer, though, that she reviewed it subsequent to</p> <p>5 January 1st of 2018. So is that wrong or what?</p> <p>6 A That's not --</p> <p>7 Q All right. So we've got another</p> <p>8 thing that's wrong in one of your discovery</p> <p>9 responses. I guess this is the answer, which</p> <p>10 is even more serious. So that's wrong?</p> <p>11 A Yeah, that's wrong, that it was</p> <p>12 reviewed -- or approved by an attorney after or</p> <p>13 subsequent.</p> <p>14 Q All right. So CFTC Exhibit 485, that</p> <p>15 was something that Rebecca Wing reviewed before</p> <p>16 you acquired the company?</p> <p>17 A Correct.</p> <p>18 Q What did she say to you about it?</p> <p>19 A That she didn't see anything in it that</p> <p>20 was misleading.</p> <p>21 Q That was what?</p> <p>22 A However -- she didn't see anything in it --</p> <p>23 MR. FALVEY: Okay.</p> <p>24 A She did not see any problem with it,</p> | <p style="text-align: right;">Page 195</p> <p>1 to three months.</p> <p>2 Q So in the first two to three</p> <p>3 months you called your lawyer, Ms. Wing, and</p> <p>4 you said, hey, all these customers are down. These</p> <p>5 recommendations have resulted in net losses for</p> <p>6 customers or something to that effect. Is that</p> <p>7 what happened?</p> <p>8 A Yes.</p> <p>9 Q And you did that in the first two</p> <p>10 to three months. So I guess that would have been</p> <p>11 like January or February of 2018?</p> <p>12 A Correct.</p> <p>13 Q All right. What did Ms. Wing say in</p> <p>14 response to that?</p> <p>15 A That don't -- she looked at the</p> <p>16 presentation again and maybe -- we talked about</p> <p>17 the talking points, the actual presentation itself</p> <p>18 also.</p> <p>19 Q What did she tell you?</p> <p>20 A That the presentation -- I would say</p> <p>21 I don't remember because we talked about a lot of</p> <p>22 things. But I don't know specific, whether it was</p> <p>23 about the talking points or whether it was talking</p> <p>24 about the actual presentation.</p> |
| <p style="text-align: right;">Page 194</p> <p>1 given the information we've had.</p> <p>2 BY MR. BURDEN:</p> <p>3 Q Got it. So CFTC Exhibit 382, you there?</p> <p>4 A Yes.</p> <p>5 Q All right. Was this the other document</p> <p>6 that Ms. Wing reviewed prior to the acquisition?</p> <p>7 A Yes.</p> <p>8 Q All right. What did she tell you about</p> <p>9 it?</p> <p>10 A That there was nothing on it given</p> <p>11 the information we had that would be a problem.</p> <p>12 Q All right. And when you acquired</p> <p>13 Long Leaf, when Ms. Wing was reviewing these</p> <p>14 solicitations, did she know that substantially</p> <p>15 all of Long Leaf's customers had lost money at</p> <p>16 that point?</p> <p>17 A No, not at that point.</p> <p>18 Q Did you go back and tell her that at</p> <p>19 some juncture?</p> <p>20 A Probably. I don't remember a specific</p> <p>21 date, time --</p> <p>22 Q Was it like right away? Was it like, oh,</p> <p>23 God, or was it like much later?</p> <p>24 A Early on, I would say, in the first two</p> | <p style="text-align: right;">Page 196</p> <p>1 Q All right. Let me make this easy</p> <p>2 for you. Did Mrs. Wing advise you that these</p> <p>3 solicitation materials, the talking points and the</p> <p>4 Power Point presentation were false or misleading</p> <p>5 in light of the trading results you've discovered?</p> <p>6 Did she tell you that?</p> <p>7 A I don't remember.</p> <p>8 Q Did she tell you to stop using the</p> <p>9 trading -- the talking points and the Power Point</p> <p>10 presentation? Did she tell you that? What are you</p> <p>11 looking at him for?</p> <p>12 A I'm not looking at him.</p> <p>13 MR. FALVEY: He wasn't looking at me.</p> <p>14 A No.</p> <p>15 BY MR. BURDEN:</p> <p>16 Q Did she tell you it was okay to</p> <p>17 keep using the talking points and the Power Point</p> <p>18 presentation that you got from Evans? Did she tell</p> <p>19 you that?</p> <p>20 A She told me to review all the talking</p> <p>21 points, all the presentations to make sure none</p> <p>22 of that is in it.</p> <p>23 Q None of what is in it?</p> <p>24 A The finding of the losses.</p> |

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1 Q What? All right. Let's try that
 2 again. Did Mrs. Wing tell you that it was okay
 3 for APs to continue using the talking points and
 4 Power Point presentations?
 5 A That the presentation was fine.
 6 However, we need to pull -- we need to make
 7 sure it doesn't have anything in there, and then
 8 the talking points had -- we had to go through the
 9 talking points to pull out anything it mentioned.
 10 Q Anything that mentioned what? What are
 11 you on about?
 12 A Anything that talks about results.
 13 Q What did you take out?
 14 A Well, it isn't in the bullet point.
 15 It was in the script that I didn't know about.
 16 Q So how then could she have told you
 17 to take stuff out relating to results if it's in
 18 a script you didn't know about?
 19 A She was giving me the advice to go
 20 through and pull it out, not to physically --
 21 not her looking at it and -- not looking --
 22 Q I can't wait to get you on the
 23 stand. Did Mrs. Wing review any other solicitation
 24 materials other than Exhibits 485 and 382?

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1 A No.
 2 Q Did you run by Mrs. Wing your new
 3 track record? Did you show that one to her?
 4 A I don't remember.
 5 Q Did you ever show Mrs. Wing your
 6 updated performance results with your core closed
 7 trades in 2019? Did you ever do that?
 8 A I did. I showed that to her. I also
 9 showed it to I believe Rita Tandaric at Cunningham
 10 to get their comment on it.
 11 Q What did Rita tell you -- sorry. What
 12 did Ms. Wing tell you about it?
 13 A Let me correct that. It was about
 14 the customers -- the updated closed trade report
 15 going to a customer, not --
 16 Q You know what I'm talking about, don't
 17 you, your new track record. Did you ever show your
 18 new track record you gave to the APs, did you ever
 19 run that by Mrs. Wing?
 20 A No.
 21 Q What about your updated performance
 22 report where people took trades from Mr. Reeves'
 23 account and showed them to customers, did you ever
 24 run that stuff by Mrs. Wing?

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1 A No.
 2 Q Yeah, I didn't think so. Did
 3 Mrs. Wing ever advise you that would be a material
 4 omission to fail to disclose Long Leaf Trading's
 5 previous performance to customers?
 6 A No.
 7 Q Did you ever ask Mrs. Wing if that's
 8 something that you should do, instead of something
 9 that you had to do, just to tell customers how the
 10 trading recommendations had performed?
 11 A I don't remember.
 12 Q All right. So are you testifying,
 13 are you trying to tell me that you ran your new
 14 track record by Rita Tandaric?
 15 A No. I -- we showed her a, quote, trade
 16 report and this is reporting to a specific customer
 17 and had any suggestions or anything about what we
 18 should add. That's where we added the disclaimer
 19 at the bottom, so if somebody asked us --
 20 Q You know I don't -- you know I'm not
 21 talking about that. My question to you is did you
 22 show Rita Tandaric your updated performance reports
 23 that APs distributed to prospective customers
 24 showing trades from June to September, like

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1 CFTC Exhibit 416? Did you show those to Rita?
 2 A I did not show those to Rita.
 3 Q Yeah, I didn't think so. All right.
 4 Did you have a sales code, Mr. Donelson?
 5 A Clarify what you mean by -- you mean
 6 at the FCM?
 7 Q Yeah, I mean at the FCM.
 8 A Yes, I had a sales code.
 9 Q What was it, please.
 10 A 001 I think.
 11 Q Any -- yeah. Any other codes?
 12 A I think 099, but that was our error
 13 account.
 14 Q Okay, all right. Well, error account
 15 doesn't count. Any codes other than that?
 16 A No.
 17 Q All right. I'd like to show you --
 18 could you turn, please, to CFTC Exhibit 455.
 19 A Okay, I'm here.
 20 Q All right. So this is an email
 21 from Mr. Cybulski to you dated October 16, 2019.
 22 The subject is Demo People and the attachment is
 23 a spreadsheet titled Copy of Jim's Demos. What is
 24 this, please.

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| <p style="text-align: right;">Page 201</p> <p>1 A It is us trying to clean up the CRM system.</p> <p>2 Q Okay. What does this spreadsheet reflect?</p> <p>3 A It reflects customer IDs that are</p> <p>4 assigned to me in the system when we transferred</p> <p>5 things from one system to the other. This is data</p> <p>6 cleanup.</p> <p>7 Q Got it. So when it's got like a</p> <p>8 person's name and it says Lead Owner Jim Donelson,</p> <p>9 does that mean that you were supposed to call that</p> <p>10 person?</p> <p>11 A No. That just means that I have --</p> <p>12 nobody else can call back this person in the system.</p> <p>13 So we were trying to move them to somebody who would</p> <p>14 make a call.</p> <p>15 Q All right. Got it. So it says</p> <p>16 here copy of Jim's Demos. Did you call these</p> <p>17 customers?</p> <p>18 A No.</p> <p>19 Q All right. How many customers did you</p> <p>20 call a day to do -- you know, prospective customers</p> <p>21 did you call a day to solicit for participation in</p> <p>22 Long Leaf's trading program?</p> <p>23 A None.</p> <p>24 Q Sorry?</p> | <p style="text-align: right;">Page 203</p> <p>1 on whether they were starting a new customer</p> <p>2 setup within the CRM. That's what would trigger</p> <p>3 the email.</p> <p>4 Q Got it. Now, you sent out thousands</p> <p>5 of these emails, didn't you?</p> <p>6 A Yeah.</p> <p>7 Q All right. So when it says,</p> <p>8 "Greetings, Eric. I just wanted to touch base</p> <p>9 and see if you had any desire to learn about trading</p> <p>10 options and how to protect your downside risk,"</p> <p>11 what are you referring to there? How is this</p> <p>12 guy going to protect his downside risk?</p> <p>13 A Hedging.</p> <p>14 Q Hedging. You don't hedge for any</p> <p>15 customers, do you?</p> <p>16 A We offered the service. Nobody took us</p> <p>17 up on it.</p> <p>18 Q Yeah. You lose money for customers,</p> <p>19 don't you? Don't you?</p> <p>20 A We did lose money for our customers,</p> <p>21 that is correct.</p> <p>22 Q All right. Would you turn to CFTC</p> <p>23 Exhibit 422, please.</p> <p>24 A I'm there.</p> |
| <p style="text-align: right;">Page 202</p> <p>1 A Zero.</p> <p>2 Q So you always had -- you've always had</p> <p>3 the APs do like the solicitations?</p> <p>4 A Correct.</p> <p>5 Q But that's not to say you didn't talk</p> <p>6 to customers on a daily basis, right?</p> <p>7 A I would talk to customers, yes.</p> <p>8 Q How many customers do you think you</p> <p>9 would talk to in a day?</p> <p>10 A Maybe one, maybe two at the most.</p> <p>11 Q All right. Can I direct your attention</p> <p>12 to 454, please.</p> <p>13 A I'm sorry. We're here.</p> <p>14 Q All right. So Exhibit 454, this is</p> <p>15 like a spam email that you sent out like every</p> <p>16 day, right?</p> <p>17 A Yeah, it's a -- it's autogenerated.</p> <p>18 It's an email blast, yeah.</p> <p>19 Q Yeah, all right. So how many of</p> <p>20 these emails do you think you sent to people?</p> <p>21 A The way it worked, I would say maybe</p> <p>22 200 in a day.</p> <p>23 Q For how many days?</p> <p>24 A At least -- I mean, it would depend</p> | <p style="text-align: right;">Page 204</p> <p>1 Q All right. So this is an email from</p> <p>2 you to Scott Gecas that you sent on June 1, 2018</p> <p>3 and the subject is June Sales Action Plan. So did</p> <p>4 you draft these June sales action plans?</p> <p>5 A Actually, these are conversations</p> <p>6 between Scott and I, and he put together the</p> <p>7 targets and the action items. I just scribed it.</p> <p>8 Q Okay. So you wrote these?</p> <p>9 A I typed them in.</p> <p>10 Q Okay, all right. So let's go</p> <p>11 to the second page. It says June Action Plan,</p> <p>12 James Hatzigiannis, Targets, and then you do some</p> <p>13 targets. And you're saying he ought to -- it says</p> <p>14 that Mr. Hatzigiannis ought to do 63 demo sets a</p> <p>15 day. Am I reading that right? No, I'm not. He</p> <p>16 ought to do three demo sets a day, is that right?</p> <p>17 A Meaning it's -- yes.</p> <p>18 Q All right. And so Key Action</p> <p>19 Items, and I want to direct your attention to the</p> <p>20 second-to-last one. Well, you know what, they're</p> <p>21 all good. Key Action Items it says, "Challenge the</p> <p>22 customer. Don't be an order taker." Did you write</p> <p>23 that down?</p> <p>24 A Yes.</p> |

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1 Q All right. Then it says, "Nail down
2 the rebuttals. Need to be fluid with the answers."
3 Did you write that down?
4 A Yes.
5 Q All right. And that's referring
6 to those that we saw in CFTC Exhibit 381, the
7 requests for past performance, that stuff, right?
8 A Correct.
9 Q All right. We're getting to the
10 end here, so I'm jumping around a little bit.
11 So during your tenure at Long Leaf, how were the
12 APs compensated?
13 A On commission.
14 Q All right. And how did they earn
15 a commission?
16 A If their customer took a trade.
17 Q Got it. And how much did an AP make when
18 a customer took a trade?
19 A They would make 35 percent of the total
20 commission.
21 Q You mean the total commission on that
22 trade paid by the FCM?
23 A Collected from the customer, paid by the
24 FCM to us, yes.

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1 Q All right. And did any of the APs
2 earn like a salary or it was just -- or was it
3 just the commissions?
4 A They all made a base of a couple thousand
5 dollars a month.
6 Q Was that for the entire time period you
7 were working at Long Leaf?
8 A Yeah.
9 Q Was that base a draw or did they just
10 get to keep it?
11 A No, it was not a draw. It was a salary.
12 Q Did any of the APs get a 401(k)?
13 A They had the opportunity in 2018. None
14 of them did. After that they were 1099 employees --
15 or contractors, so you can't have a 401(k) for them.
16 Q Got it. So could you have changed
17 this compensation structure anytime you wanted?
18 A Yes.
19 Q All right. Wouldn't you agree
20 that this compensation structure for the APs at
21 Long Leaf incentivizes those APs to get customers
22 to make trades?
23 A Yes, that's what that compensation
24 structure would do.

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1 Q Thanks. Let's go to CFTC Exhibit 427.
2 It's an email from you to your APs dated October 7,
3 2019 copying your wife, Subject: Simple Commission
4 Model. And the email says, "Guys, this is a quick
5 commission model to help you understand the value
6 of an account. By changing the highlighted areas,
7 you can estimate the amount of monthly commission
8 generated from a single account. It details
9 out total commission and your share." So what
10 is this? What's going on here?
11 A This was an explanation to -- let me
12 check the date.
13 Q October 7, 2019.
14 A Yeah. This is -- we were explaining
15 how the compensation works and what that lifetime
16 value would be if all these things happen.
17 Q So walk me through it. I really like
18 this commission structure thing. What's going on
19 here? There's a commission per month, you know.
20 It looks like there's a row for 25,000, a row for
21 50,000, a row for 100,000 and then there's some
22 commissions. What is this supposed to show your
23 APs, please.
24 A Basically it's showing with the

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1 trades that would be made and the legs, what their
2 commission per -- you know, the total commissions
3 would be per month. And then we're looking at a
4 different proposed commission rate and then kind
5 of how much that total commission would be and how
6 much it would be for the AP versus the company.
7 Q Got it. So at the top where it says
8 Trading 25,000, 50,000, 100,000, what are those
9 numbers supposed to represent, like the size of
10 an account?
11 A The size of an account.
12 Q All right. So then it says Full,
13 Adjustment, Sets, Trades. Like legs are the same
14 for all of them. Like what's all that supposed to
15 show? Like here's what I'm getting at. It looks
16 here like, you know, for the \$100,000 there's like
17 a bunch of numbers and then it says commission per
18 month \$4,692. So how do you get from the 100,000
19 to the \$4,692?
20 A I'm struggling with it too and
21 I built the spreadsheet. It's taking the proposed
22 commission -- I'm struggling with what the math is
23 here.
24 Q All right. If you don't remember,

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1 that's okay. All right. I want to direct your
 2 attention, please, to CFTC Exhibit 480. No, sorry,
 3 479.
 4 A Yes.
 5 Q Yeah. So what is this, please.
 6 A It was an analysis tool that I was
 7 working with the APs to understand, you know,
 8 what does it -- you know, if you do this, if you
 9 do that, what happens, you know, how much leverage
 10 is going to be in there, so on and so forth.
 11 Q All right. Is this something that was
 12 shared with customers?
 13 A I don't believe so. This was us trying
 14 to figure out something, and that was a long time
 15 ago.
 16 Q Yeah. I mean, I'm looking at this
 17 and there's a row towards the middle that says Net
 18 Annual Return \$486,000, Net Annual Return Percentage
 19 24.31 percent. Like what's that supposed to be?
 20 I mean, certainly nobody got that. Like what's
 21 this supposed to be?
 22 A This is all driven off of different
 23 expectations. If you do this, what would it get
 24 you, what would this do. This is very hypothetical.

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1 It's not meant to be a here's what you're going to
 2 make. It's us trying to understand ramifications
 3 of doing X, Y or Z.
 4 Q All right. Let's turn to CFTC Exhibit 274,
 5 if we could, please. So --
 6 A I'm there.
 7 Q Yeah. So this is an email from you
 8 to your APs dated July 27, 2018, is that right?
 9 A Correct.
 10 Q All right. And it says, "After
 11 my discussion on Tuesday, these call volumes
 12 are unacceptable. 200 per day is the number
 13 and we better start hitting it." So what are
 14 you -- 200 per day of what, calls to customers?
 15 A Calls, outgoing calls.
 16 Q All right. You're a tough boss,
 17 Mr. Donelson. How many calls were the APs doing
 18 soliciting for Long Leaf Trading?
 19 A If I look at this report, it says
 20 there was only 533 calls by five different -- so
 21 they're doing barely a hundred.
 22 Q Is that a day?
 23 A Yeah. Most of the calls actually
 24 don't go through. Very few are actually answered.

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1 Q Where do you get your leads from or where
 2 did you get your leads from?
 3 A They were getting leads from --
 4 it sounds like -- the name of the company is --
 5 I have to remember the name of the company, but
 6 they were getting leads from another broker.
 7 Q Did you wind up being able to sell your
 8 leads after Long Leaf Trading closed?
 9 A No. Maybe one person bought some, but
 10 that was about it. They were too old.
 11 Q All right. And you tried to change
 12 Long Leaf's name in June of 2019, didn't you?
 13 A We were discussing changing the name, yes.
 14 Q To Forefront?
 15 A Yes.
 16 Q Did you ever wind up changing that name?
 17 A No.
 18 Q Did you ever solicit anybody under the
 19 banner of Forefront?
 20 A No.
 21 Q Why did you want to change the name?
 22 A At the time we were also looking at
 23 becoming a CTA and we would use a different name
 24 for the CTA.

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1 Q Got it. Wait. So in June of 2019 you
 2 wanted to become a CTA?
 3 A We were exploring it.
 4 Q Why did you want to do that?
 5 A It's a better fit for this type
 6 of trading where we would have to go out and
 7 get approvals, timing, but it wasn't -- you know,
 8 we couldn't get the structure in place right.
 9 Q Sorry. What was that last bit? You
 10 broke up, please.
 11 A (Inaudible) becoming a CTA and decided
 12 we couldn't do it.
 13 Q Why couldn't you do it?
 14 A Capital, staffing, a lot of issues and
 15 the issues around the SBA loan.
 16 Q Got it. All right. I want to direct your
 17 attention, if I could, please, to CFTC Exhibit 408.
 18 A Okay.
 19 Q Do you recognize this document?
 20 A Yes, it's the solicitation approved
 21 in 2019.
 22 Q And, in fact, this is the only -- it
 23 doesn't say that the solicitations are approved,
 24 does it?

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| <p style="text-align: right;">Page 213</p> <p>1 A No, it says that they have no comments 2 on it. 3 Q All right. And this is the only 4 no comment letter that you received from NFA, 5 correct? 6 A With regards to solicitation, yes. 7 Q Did you get any other kind of no 8 comment letters from NFA that I don't know about? 9 A No, not that I know of. 10 Q All right. There we go. Okay. So 11 when you submitted these materials to NFA and they 12 provided their no comment letter you'll see it says, 13 "NFA did not verify any of the statements contained 14 within the material. This notice does not preclude 15 NFA or the CFTC from raising compliance issues with 16 the content of the material at some future time." 17 So when you submitted these 18 materials, did you advise NFA that substantially 19 all of Long Leaf's customers had lost money trading 20 pursuant to its recommendations? 21 A They already knew that through a review 22 that they did in -- 23 Q We'll get to that in a minute. When 24 you submitted these materials, did you advise</p> | <p style="text-align: right;">Page 215</p> <p>1 A I was not at the time of the review, 2 no. However, I was there when the final exit 3 letter came out. 4 Q All right. What was the date of that 5 exit letter? 6 A Late February of 2018. I want to say 7 the 26th, but I'm not sure. 8 Q You've got a real good memory 9 for some things. So let's turn back to CFTC 10 Exhibit 401. So the NFA has completed its audit 11 here in December 6th of 2018, and what they say in 12 this letter is that Long Leaf Trading used deceptive 13 sales practices and they point to a number of false 14 statements made by APs. Is that a -- that they 15 claim were made by APs. Is that a fair summary 16 of the letter? 17 A That is a fair summary. 18 Q All right. So how did this audit 19 ultimately end for you? 20 A I'm not sure what you mean by end. 21 Q All right. So the NFA ultimately 22 brought a business conduct complaint against Long 23 Leaf Trading and you, correct? 24 A Correct.</p> |
| <p style="text-align: right;">Page 214</p> <p>1 the reviewer that Long Leaf Trading had lost since 2 you started more than \$1.6 million of customer 3 money? Did you tell them that? 4 A No, I did not. 5 Q All right. So let's look at CFTC 6 Exhibit 401, if we could, please. So what is this 7 document, please. 8 A This is an exit letter from the NFA 9 examination. 10 Q Got it. All right. So, you know, 11 before we were looking at some trade recommendations 12 and I was asking you about the format of them, in 13 particular like max gain, target gain. Do you 14 remember that discussion? 15 A Yes. 16 Q And you had suggested to me that this 17 format was approved by the NFA. Do you remember 18 that? 19 A I don't know that I said approved. 20 They reviewed it in previous reviews. 21 Q All right. When did that review occur? 22 A That was the review in August of 2017. 23 Q Oh, so you weren't there for that 24 review where they looked at these recommendations?</p> | <p style="text-align: right;">Page 216</p> <p>1 Q And you resolved that business 2 conduct complaint by agreeing never to register 3 as an NFA member again, correct? 4 A Correct. 5 Q And that effectively ended your career 6 as a guy who runs a brokerage firm, is that fair 7 to say? 8 A That's fair to say, yes. 9 Q And in that settlement, though you 10 neither admit nor deny NFA's findings, the NFA 11 makes findings that Long Leaf and you in fact 12 engaged in fraudulent solicitation practices, 13 is that fair to say? 14 A I neither admitted nor denied the claim. 15 MR. BURDEN: All right. You know what, 16 can we go off the record. This might be it 17 for us. 18 MR. FALVEY: Sure. 19 MR. BURDEN: Thanks. All right. 20 I'm going to -- I'm not going to mute myself 21 or anything. 22 (Whereupon a recess was taken from 23 6:14 p.m., to 6:15 p.m., after which 24 the following proceedings were had:)</p> |

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| <p style="text-align: right;">Page 217</p> <p>1 MR. BURDEN: All right. Thank you.</p> <p>2 Q Mr. Donelson, what does Donelson</p> <p>3 Enterprises do right now?</p> <p>4 A Nothing.</p> <p>5 Q All right. What are you doing for work</p> <p>6 right now?</p> <p>7 A I'm a consultant.</p> <p>8 Q For whom?</p> <p>9 A A cryptocurrency trading operation,</p> <p>10 I'm not allowed to say, in helping them with their</p> <p>11 books and records around accounting.</p> <p>12 Q Oh, you're going to say. What is the</p> <p>13 crypto operation that you are currently consulting</p> <p>14 for?</p> <p>15 A I have a nondisclosure agreement.</p> <p>16 Q Yeah. That stuff does not trump</p> <p>17 subpoenas or deposition notices and you, sir,</p> <p>18 are being deposed.</p> <p>19 A It is Fractal Wealth, and all I am doing</p> <p>20 for them is helping them with their tax trading</p> <p>21 profits.</p> <p>22 Q Did you say Fractal Wealth?</p> <p>23 A Yes.</p> <p>24 Q All right. Any other work that</p> | <p style="text-align: right;">Page 219</p> <p>1 you paying work since Long Leaf? We've got Ronin</p> <p>2 Capital. We've got Fractal Wealth. We've got your</p> <p>3 Forefront endeavor and your juice bar -- or your</p> <p>4 friends'.</p> <p>5 A Yeah.</p> <p>6 Q Anything else?</p> <p>7 A Another trading firm, but that was</p> <p>8 really about structuring and that was I want to</p> <p>9 say Performance Trust, but that doesn't sound right.</p> <p>10 I'd have to check.</p> <p>11 Q Got it, okay. Any other paying work</p> <p>12 since -- other than Long Leaf?</p> <p>13 A I do bits and pieces a lot for people</p> <p>14 who make 600, 700. Nothing major. I do file tax</p> <p>15 returns for them or help them understand why their</p> <p>16 tax returns don't work right and so on and so forth.</p> <p>17 So I've been dealing with the IRS.</p> <p>18 Q Okay. So you've been doing CPA work?</p> <p>19 A Yeah.</p> <p>20 Q All right. So when you get paid</p> <p>21 for all of the things you just mentioned, does</p> <p>22 that money go to you or does it go to some like</p> <p>23 entity that you -- you know, some other entity?</p> <p>24 Does it go to another person?</p> |
| <p style="text-align: right;">Page 218</p> <p>1 Donelson Enterprises is -- oh, sorry. End of a long</p> <p>2 day. Any other work that you're doing currently,</p> <p>3 Mr. Donelson?</p> <p>4 A (Inaudible) Forefront Technology,</p> <p>5 we're talking with a customer who may or may not</p> <p>6 (inaudible) the middle office system. I'm helping</p> <p>7 a couple that have a juice bar. He's an ex-Marine,</p> <p>8 and I'm helping them with kind of setting up the</p> <p>9 company and getting the books and records in place.</p> <p>10 Q All right. Any other work that you're</p> <p>11 doing currently?</p> <p>12 A I do a lot of consulting in the concept</p> <p>13 if somebody calls me up and I answer questions, but</p> <p>14 I'm not paid.</p> <p>15 Q Yeah, no. Sorry. I meant for pay. So</p> <p>16 since you've left Long Leaf, any other paid work</p> <p>17 that you've had?</p> <p>18 A I have done a lot of work with</p> <p>19 Ronin Capital to clean up their trading and</p> <p>20 kind of accounting issues, done some consulting</p> <p>21 on specific tax accounting issues related to trading</p> <p>22 with omission capital, that -- I mean, those are</p> <p>23 the types of things I do.</p> <p>24 Q All right. Anybody else that's given</p> | <p style="text-align: right;">Page 220</p> <p>1 A Most -- almost all of it comes to me,</p> <p>2 except for one where I'm supporting. He has the</p> <p>3 relationship so the payment goes to him and then</p> <p>4 he sends me my paycheck.</p> <p>5 Q Got it, okay.</p> <p>6 A But it still comes to me.</p> <p>7 Q No, no, no, okay. So how much</p> <p>8 have you been getting a month in income since,</p> <p>9 you know, let's say December of 2019?</p> <p>10 A Last year was tough. I'd say maybe</p> <p>11 6,000 a month last year. Closer to 10 this year.</p> <p>12 Q Per month?</p> <p>13 A Per month.</p> <p>14 MR. BURDEN: Okay, great. Well, you</p> <p>15 know, that concludes the CFTC's examination.</p> <p>16 Mr. Falvey, do you have any redirect?</p> <p>17 MR. FALVEY: I do not. Thank you.</p> <p>18 MR. BURDEN: All right. Mary, off the</p> <p>19 record, please.</p> <p>20 (WITNESS EXCUSED)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> |

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| <p style="text-align: right;">Page 221</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF ILLINOIS 3 EASTERN DIVISION 4 COMMODITY FUTURES TRADING) 5 COMMISSION,) 6 Plaintiff,) 7 vs.) No. 20 C 3758 8 LONG LEAF TRADING GROUP,) 9 INC., et al.,) 10 Defendants.)</p> <p>11 I, JAMES A. DONELSON, do hereby certify 12 that I have read the foregoing transcript of my 13 deposition given on June 23, 2021, consisting of 14 pages 1 to 223, inclusive, and I do again subscribe 15 and make oath that the same is a true, correct and 16 complete transcript of my deposition so given as 17 aforesaid, and includes changes, if any, so made by 18 me.</p> <p>19 Corrections have been submitted 20 No corrections have been 21 submitted</p> <p>22 JAMES A. DONELSON, Deponent</p> <p>23 Subscribed and sworn to 24 before me this day of , 20</p> <p>Notary Public</p> | <p style="text-align: right;">Page 223</p> <p>1 Rules of Civil Procedure for the United States 2 District Courts, if deponent fails to read and sign 3 this deposition transcript within 30 days or make 4 other arrangements for reading and signing thereof, 5 this deposition transcript may be used as fully as 6 though signed, and the instant certificate will 7 then evidence such failure to read and sign this 8 deposition transcript as the reason for signature 9 being waived.</p> <p>10 The undersigned is not interested in the 11 within case, nor of kin or counsel to any of the 12 parties.</p> <p>13 Witness my official signature and seal as 14 Notary Public, in and for Cook County, Illinois on 15 this 8th day of July, A.D., 2021.</p> <p>16 17 18 Mary Maslowski, CSR, RPR 19 Notary Public 20 79 West Monroe, Suite 1001 21 Chicago, Illinois 60603</p> <p>22 23 24</p> |
| <p style="text-align: right;">Page 222</p> <p>1 NORTHERN DISTRICT OF ILLINOIS) 2 EASTERN DIVISION) 3 STATE OF ILLINOIS) 4) SS. 5 COUNTY OF COOK)</p> <p>6 I, Mary Maslowski, Certified Shorthand 7 Reporter and Notary Public in and for the County 8 of Cook, State of Illinois, do hereby certify that 9 on June 23, 2021, at 9:03 a.m., the remote video 10 deposition of the witness, JAMES A. DONELSON, called 11 by the Plaintiff, was taken before me, reported 12 stenographically and was thereafter transcribed by 13 me.</p> <p>14 The said witness, JAMES A. DONELSON, was 15 first duly sworn to tell the truth, the whole truth, 16 and nothing but the truth, and was then examined 17 upon oral interrogatories.</p> <p>18 I further certify that the foregoing is a 19 true, accurate and complete record of the questions 20 asked of and answers made by the said witness, at 21 the time and place hereinabove referred to.</p> <p>22 The signature of the witness was not waived 23 by agreement.</p> <p>24 The deposition terminated at 6:23 p.m. Pursuant to Rule 30(e) of the Federal</p> | |